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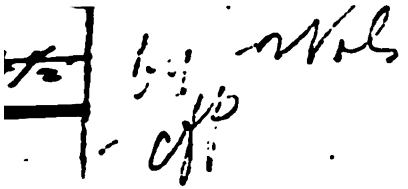

NARRATIVES

FROM

CRIMINAL TRIALS IN SCOTLAND.

BY

JOHN HILL BURTON,

AUTHOR OF "THE LIFE OF DAVID HUME," "THE LIVES OF SIMON LORD LOVAT, AND DUNCAN FORBES OF CULLODEN," &c.

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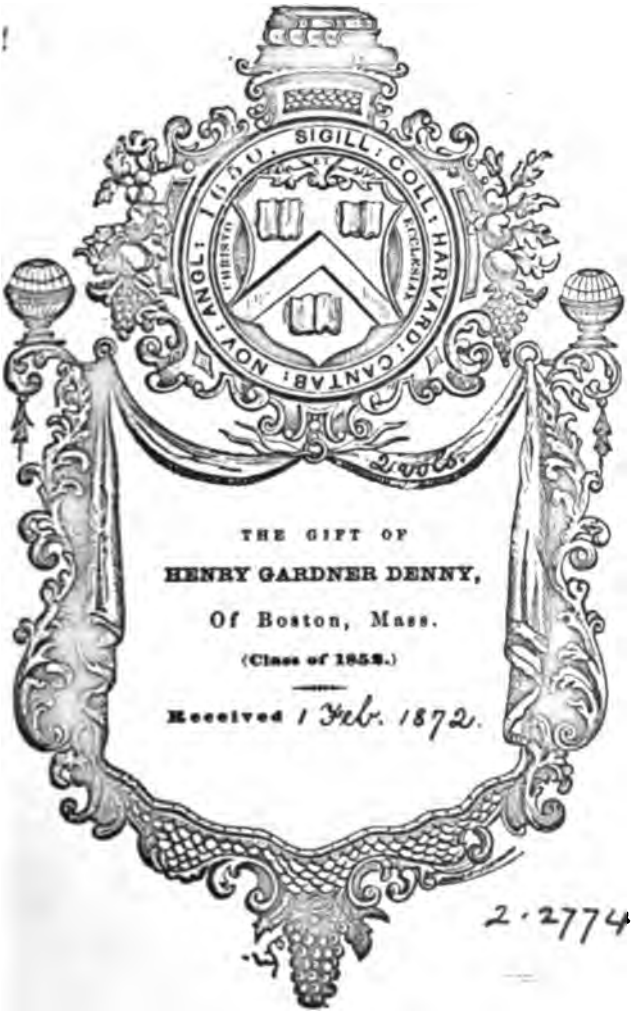

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INTRODUCTORY NOTICE.

WHOEVER professes to disclose from criminal records anything that has both importance and novelty to recommend it, will generally need no further excuse for offering it to the public. There can be no source of information more fruitful in incidents which have the attraction of picturesqueness along with the usefulness of truth. In every country in which there is even a pretence of administering justice, the social circle where crime is to be sought and punished, is subjected to a sudden and searching investigation of its elements and condition. The Asmodeus of the law catches the group by surprise, ere it has time to veil itself in conventionalities and adjust appearances for public view. The administration of criminal justice may thus be said to cut to the very centre of society, and lay bare all its strata. Besides the reference of every criminal trial to some main central event, in which the passions and propensities of mankind are developed in their most emphatic shape and deepest hue, each investigation reveals, collaterally, the social secrets of the day—from the state-mysteries, guarded by the etiquette and policy of courts, down to those

characteristics of humble life, which are removed from ordinary notice by their native obscurity.

Under arbitrary laws, the knowledge thus extracted is generally retained for generations in official secrecy, and may, or may not, be brought to light in subsequent ages, by persons who do not inherit the original motives for concealment. But whether found in the mouldy registers of secret inquiries, or developed in the broad daylight of a public trial, the details of such investigations are a great mine of impressive knowledge. The contents of the following pages have been drawn from both these sources. The author offers them to the public, under the impression that they develop remarkable social conditions, and throw new light on the secret impulses of historical events; but whether he has thus formed a just conclusion, is a question for others to decide.

The materials here made use of, had accumulated in the author's hands, along with much other miscellaneous matter, in the pursuit of historical projects relating to Scotland, which he hopes yet to realise. The authorities drawn from are indicated, here and there, in the usual manner. And it will be seen, that while some of them are yet in manuscript, several others, owing to the limited circle for whose use they have been printed, may be considered as in the same condition to the world at large, however well they may be known to investigators in peculiar corners of Scottish history.

CRIMINAL TRIALS IN SCOTLAND.

PROCEEDINGS AGAINST THE CLAN GREGOR.

If one were desired to point out upon the map, on no surer ground than the mere physical character of the country, that spot which must have been the main battle-field between the Celtic races living among the mountains, and the people of Saxon origin who tilled the plain, he would naturally point to the mass of broken mountains, clustering about Loch Lomond and Loch Catrine, which strike from the great mountain ranges of the north right into the most fertile plains and valleys of the south. In the more northern districts of Perthshire and the wilds of Inverness, the fastnesses of the Highland tribes were separated by dreary districts of undulating moors and low hills from the fields of their natural enemies, while the inhabitants of

the isles and the far west were still more distant both from the field of plunder and the arm of the avenger. But the country of the Macgregors rises so abruptly from the rich plains of the Lenox and Menteith, that the untamed freebooter could look down from his mountain fastness into the bosom of that thriving industry in which he was to find his prey—could count the cattle which were destined for his spit, and watch the yellowing of the grain, from which he some day hoped to distribute bread among his hungry children, and cheer the idle winter with liberal cups of usquebah. In a country where the transition from soft, alluvial, fertile fields to rocky inaccessible mountains is so sudden, the industrious Saxon would keep to the one and the predatory Celt to the other, as naturally as the buffalo keeps to the prairie and the tiger to the jungle. To this day the contrast between the people of the plain and those of the mountain is scarcely less distinct than it was of old, though its colours have varied. The ancient spirit of predatory ferocity—the thirst for vengeance—the inextinguishable hatred and scorn of the civilised man and his ways, have long departed. But they have left—whether from political causes or peculiarity of race we need not here inquire—the inanimate body of their old barbarism still unillumined by the lights of advancing civilisa-

tion. Pressed on by social progress in its most active and aggressive forms—frequented annually by swarms of tourists—studded with the villas of affluent lovers of mountain scenery—the dwellers in these regions preserve the sloth and listlessness of the tropical savage. The tourist on the top of a coach, crossing the Highland line near Doune or the Leven, feels as if some phantasmagoric change had taken place in human as well as inanimate nature. Up to the very entrance of the pass he has driven through high farming, manufacturing activity, cleanness, independence, and affluence. From these he is at once introduced to a new language and a new people—to indolence, servility, and squalid filth.

To their predatory occupants the mountain fastnesses of Balquhidder and the Trossachs were all the more valuable from their vicinity to a rich industrious country—an advantage similar to that enjoyed by the German freebooters on their great navigable rivers, or by the highwayman who had his place of safety near a well-frequented road. The same circumstance would make the Lowlanders all the more resolute in their efforts to rid themselves of neighbours so unpleasant. As long, however, as there existed throughout the vast mountain districts of Scotland a race, half-independent, with arms in

their hands, predatory habits, and a traditional hatred of the governing race,—so long was it in the nature of things that the southern frontier of the Highlands would be occupied by them. The two-fold character of the country, its inaccessible ruggedness, and its close vicinity to tracts affluent in booty, made this a physical and moral necessity. Until the Highlanders were altogether subdued, the most dangerous and ferocious among them would be found precisely in this district. Hence came the ever deepening and ever vain ferocity of the war of extermination carried on for two centuries between the government and the Clan Gregor. The strange incidents by which it was traditionally surrounded have been spun into many a romantic tale and work of genius. But even from the authentic official documents in which the struggle is recorded, one may find a history as striking as it is solemn and instructive.

It is unnecessary on this occasion to inquire into the truth of the traditionary histories which claim for the Macgregors a royal descent. They belonged to those tribes chiefly of Celtic, but partly of Norse origin, who carried on a long struggle with the monarchs of Lowland Scotland for the establishment of a separate nationality. The history of this struggle has yet to be written, in the spirit of those

who can discharge from history conventionalisms about "establishing the authority of the law and the strength of the executive," and the like, which have a meaning in constructed and consolidated governments, but have no more reference to the early chaotic elements from which nations have been gradually developed, than the orders of architecture have to the stratification of rocks. We need go no further into the question here, than to notice that the feelings of the Highlander and Lowlander towards each other were embittered by traditions of national conflict, ending in the subjugation of the one race by the other. If this feeling doubtless lingered, and that with considerable strength and vitality, down to the time when the Clan Gregor became so conspicuous in the statute-book and the criminal records, it became gradually aided and strengthened by another and even more powerful cause of animosity. It came to be the Lowlander's way of enjoying existence and the benefits which the material world afford, to labour and grow rich. The Highlander, on the other hand, found it more conducive to his taste and circumstances to watch his Lowland neighbour's accumulating wealth, and take possession of it for his own purposes when a suitable opportunity occurred. Between people whose views in life were so incompatible, there could be no more harmony and co-operation than between the shep-

herd's dog and the wolf. The utilitarian objects of the attackers and defenders were, in reality, the main inspiration of the conflicts with the Macgregors; and thus, however picturesque they may seem in their bloody results, a certain air of nutritive homeliness —a hungry hankering after bread and beef—is ever at the root of the conflict; and recals Waverley's regret, that his romantic mission to a Highland outlaw should have had no more heroic impulse than the recovery of the baron's stolen cattle.

The earliest notice which we find of this predominating propensity is in 1533, when Patrick MacCoule-Kere Macgregor, with his two brothers, "in company with sundry rebels of the Clan Gregor," are charged with stealing forty cows from the Earl of Menteith.* For some length of time the charges of such acts of "stouthrief," "spulzie," &c., became tiresomely uniform—the special heads of cattle thus "lifted" being enumerated and classified with the precision of the more recent species of agricultural prize lists.

But while the origin and main source of the fierce conflict with the law, recorded in the following pages, was unquestionably this vulgar, but all-powerful one—the desire of food and other useful plunder—it was accompanied by many incidents of pure savageness, one of which, however well it may

* Pitcairn's Criminal Trials, i., 164.

be already known to the reader, must be briefly mentioned. Some rievers having been caught and punished by Drummond, the king's deer-keeper, resolved on vengeance; and having waylaid Drummond, when occupied in providing venison for the festivals in honour of the reception of the Queen, Anne of Denmark, they cut off his head. Proceeding homeward with their trophy, they sought the hospitality of Stewart of Ardvoirlich, whose wife was the murdered keeper's sister. Stewart being absent, his wife could offer them, as the legend proceeds, no better hospitality than bread and cheese. Offended by so sordid a feast—though in the Highlands it would seem, that at a much later date cheese was in the category of luxuries—the murderers, in savage sport, placed the keeper's head on the table, with a morsel of the bread and cheese in its mouth. The poor woman fled from the house distracted, and the murderers, conveying the head to the church of Balquhidder, the Macgregors there laid their hands on it, and solemnly swore to support the deed that had been done. If there had been any doubt of the truth of this legend, it would have been dispelled by Sir Walter Scott, who publishes in his notes to "The Children of the Mist," an act of the privy council in the year 1589, where it is narrated in full; and the Clan Gregor are said to have "laid

their hands upon the pow (poll or head), and in heathenish and barbarous manner swore to defend the authors of the said murder, in most proud contempt of our sovereign lord and his authority, and in evil example to other wicked limmers to do the like, if this shall be suffered to remain unpunished."

The remedy sought by the government against these depredations and outrages, consisted in strengthening the hands of the injured parties, and of all who hated the Macgregors, and hounding them on to vengeance.

In a royal letter to the privy council, presented in November, 1611, the economy of the system which had then been in operation for nearly a century, is thus laid down on the highest authority. "We send you now home the Earl of Argyle, to make an end according to his promise of that service which he hath already begun. . . . As to the service itself, we are thus resolved, that as the connivance at those and the like malefactors might justly be accounted a great iniquity, so the *utter extirpation of them all, and every one in particular, would be a work too troublesome.* And therefore we have thought good on some to execute justice, and the rest to take to mercy; and as we will not have our justice satisfied with the meanest and basest persons, so we would have special choice made of the most

notorious malefactors, to be an example thereof in this present business. For which effect we would have you to crave the advice, as well of the said Earl of Argyle, as of *the gentlemen and others next inhabiting unto them, and who have been most endamaged by them*, by whose information you may likewise learn what particular persons are most fit to be taken to mercy, and which not." In more than one of the proclamations there are reproachful complaints about the tardiness of those enemies of the Macgregors, who had "promised to go to the fields and enter in action and blood with them;" inciting them to exertion, and requiring "that they shall do some notable service against the Clan Gregor before his majesty be burdened with any charges in this service."

This seemed a cheap and simple remedy, and a doubly efficacious one, since it not only set at work effective and powerful instruments for the extirpation of the obnoxious tribe, but it kept in congenial occupation restless spirits who might otherwise be flinging against the government, and sometimes ended successfully in the mutual extermination of two troublesome clans. Thus the house of Argyle, and several minor families, whose Lowland property suffered from the ravages of the mountaineers, obtained commissions, or warrants, to attack,

imprison, and slaughter them. The earliest of this series of warrants appears to occur in 1563. There is a quaint, foul-mouthedness about these documents. Our legislative and official phraseology was never complimentary to the Celts. In Ireland they were *cosherers*, *sorners*, *tories*, *robbers*, and *rapparees*. In Scotland they were *limmers and Hieland thieves*, or *loons and sorners*. One legislative expression had become common to the two countries — "his majesty's Irish rebels," or "his majesty's Hieland rebels," as the case might be. Against the persons thus stigmatised, the warrants, or licenses of civil war as they might perhaps be more justly called, gave those authorised to enforce them irresponsible powers—the right to pursue the people in all places and with all weapons—to seize them alive or dead, meaning to ensnare or slay them—to attack and destroy their houses, a privilege inferring the siege of places of strength, and the reckless destruction of the turf-houses of the ordinary people. The holder of such a warrant was not only entitled to hound out his own followers against the devoted clan, but he might call on every neighbour to aid him, and raise the whole district in which he lived to revenge their injuries, and fight out their hereditary feuds, as an acceptable service to the government.

Afterwards there may be more to say about the ex-

press terms of these warrants, when it will be found that they failed in accomplishing their object; in fact, it was an object that could not be accomplished. So long as the Celts bore arms, and preferred plunder to industry, they would occupy those rocky fastnesses, so conveniently close to the choice fruits of Lowland industry. Nothing but the extinction of the whole race, or their subjugation to the peaceful pursuit of the sheep-farmer, could prevent the most advantageous post for cattle stealing throughout all the Highlands from being occupied by cattle-stealers, whether they called themselves Macgregor, or any other *ortus regibus* name. And hence came that system of persecution, ever increasing in ingenious cruelty, as every sanguinary effort failed, in such a fashion as ought to have taught thinking men that success in the main object of their efforts was hopeless.

The government did not even profess to select the instruments of its vengeance. Whoever desired to join in hunting the Macgregors had but to pay the usual fees for obtaining a commission of justiciary to that end, when it was cheerfully handed over to him. The official expression came to be, that such a one had "purchased a commission of justiciary for pursuit of the Clan Gregor," just as a person is said to purchase a licence for pursuit of

game. This practical phraseology was curiously brought out in an accusation against one of the purchasers, of having obtained his commission not for the legitimate end of pursuing the Macgregors, but to afford him the means of executing his own peculiar vengeance against another family with which he was at feud. On the 3rd of May, 1593, it is set forth that Robert Galbraith, of Culchreuch, had purchased a commission of justiciary for pursuit of the Macgregors, their resetters, and assisters, with fire and sword, with power to convene the lieges to assist him in this work. "Which commission," the record proceeds to say, "the said Robert has not purchased upon an intention to attempt anything against the Clan Gregor, but under colour thereof to extend his hatred and malice against Alexander Colquhoun, of Luss, and Allan Macaulay of Ardincaple, their kin, and friends, with all extremity, and under colour of searching and seeking for the Clan Gregor, to assiege their houses and raise fire therein." Macaulay states for himself, that he is quite as ready to hunt the Clan Gregor as Galbraith can possibly be. But that Galbraith had assembled the whole tribe of Buchanan, between whom and Macaulay there lay a deadly and inextinguishable feud, arising from the slaughter of a follower. Between Galbraith and Macaulay there

was a still fiercer family feud, deepened by Macaulay having married the widowed mother of Galbraith. It was clear that such hounds could not hunt in couples, and it was considered reasonable by the court to exempt the Colquhouns and the Macaulays from co-operating with Galbraith.

The reasons for this exemption, when put in the form of a solemn judicial conclusion, seem so odd and quaint an adjustment of professional formality to the ferocious habits of the age, that the passage expressing the source of the so greatly-respected family feud, is here offered for the reader's perusal, with no greater alteration than the modernising of the spelling.

"In respect of the deadly feud standing betwixt the said Alexander Colquhoun, of Luss, and the said Robert, through the slaughter of umwhile Donald M'Neill M'Farlane, household servant to the said Robert, committed by the said Alexander's umwhile brother, which feud yet stands betwixt their houses unreconciled, and the said Laird of Culcreuch, daily awaits all occasions to revenge the same; and in respect of the feud lately renewed betwixt the said Laird of Ardincaple and the Buchanans, with whose power and force the said Robert is assisted in execution of the said commission, using their advice and direction in all things there-anent: as

also in respect of the great grudge and hatred standing likewise betwixt the said Laird of Ardincaple and the said Robert, who having bereft his own mother, whom the said Laird of Ardincaple has now married of her whole living, he has by order of law recovered the same furth of his hands: for the which cause the said Robert seeks to have his advantage of him, has given up kindness, and denounced his evil will to him with solemn vows of revenge."*

The ravages of the Macgregors came at length to a climax, in an event which figures in Scottish history as the battle of Glenfruin or the Raid of the Lennox. It makes its appearance on the criminal records in the trial of Alaster Macgregor of Glenstray, Duncan Pudrache Macgregor, and the owners of a varied list of similar names, arraigned before the court of justiciary on the 20th of January, 1604, for treason, stouthrief, and fire-raising. It was set forth that, "having concluded the destruction of Alexander Colquhoun, of Luss, his kin, friends, and *alia*, and the haill surname of the Buchanans, and to harrie their lands, they convened the Clan Chameron, the Clan Vourich, and divers other broken men and sorners,† to the number of four hundred men, or

* Pitcairn's Criminal Trials, i., 290.

† "Broken men" was an expression applied generally to all the Border and Highland depredators; but in its limited sense

thereby, all *bodin in feir of weir* (*i.e.*, set out in warlike array) with hakbuts, pistollettes, morions, mail-coats, poll-axes, two-handed swords, bows, darlochs, and other weapons." They were charged with putting to death seven score or 140 persons, in a partial list of whom there occurs the familiar name of Tobias Smollett, who was, it appears, bailie or civic magistrate of the town of Dumbarton.

It is said by the annalists partial to the Macgregors, that they had no intention to commit any outrage—that they proceeded to Luss for the purpose of having an amicable and satisfactory arrangement of difficulties, and that they were treacherously and unexpectedly attacked by the Colquhouns. But Highland rievers did not generally march into the low country, four hundred strong, peaceably to adjust differences, any more than the highwaymen of later times presented pistols with the like object. Nor could the differences be very easily adjusted, since they consisted in the one party desiring the

it applied to those who had no chief or other person to stand surety for them. Sorners or sojourners were those who had a general partiality for living at the expense of their neighbours. They are denounced in several acts of parliament, and one of the year 1455 provides that, "wherever sorners be found in existence in time to come, that they be delivered to the king's sheriffs, and that forthwith the king's justices do law upon them as upon a thief or riever." This, it may be noticed, is an entire statute, and a favourable specimen of what Bacon called "the excellent brevity" of the old Scottish acts.

cattle, horses, and miscellaneous property belonging to the other. On the other hand, the Macgregors were charged with atrocities, of which one would fain believe, in the absence of good evidence, that they were not guilty. "It is reported," says Sir Walter Scott, "that the Macgregors murdered a number of youths, whom report of the intended battle had brought to be spectators, and whom the Colquhouns, anxious for their safety, had shut up in a barn to be out of danger. One account of the Macgregors denies this circumstance altogether; another ascribes it to the savage and bloodthirsty disposition of a single individual, the bastard brother of the Laird of Macgregor, who amused himself with this second massacre of the innocents, in express disobedience to the chief, by whom he was left their guardian during the pursuit of the Colquhouns."* But had such an episode occurred, we may rest sure that it would not have been passed over in the indictment, where there is no allusion to it. This document contains a sufficient number of atrocities. It states, that the greater part of the slaughter was among prisoners who had been "tane captives by the said Macgregors before they put violent hands on them, and cruelly slew them," and concludes with denouncing the whole as a series of "cruel, horrible,

* Notes to the "Lady of the Lake."

and treasonable crimes, the like whereof was never committed within this realm."

It was of course difficult then, as for a century and a half afterwards, to apprehend the Macgregors, either by penetrating to their wilds, or inducing them to trust themselves in the low country. One chronicler says, that Argyle, by fair promises, induced the chief to visit him during a festival, where he was seized and bound. The castle where this took place stood on an island—probably it was Kilchurn Castle, in Loch Awe. As a boat was conveying the captive chief to the shore, he escaped, much after the same fashion as his representative Rob Roy in the novel, by tossing overboard the nearest of his keepers, and taking to the water.* If the accounts of his final recapture are to be credited, they would say more for the cunning than the candour of Argyle. The earl told the chief that if he surrendered himself he would be seen safe to England, or, as other authorities say, safe out of Scotland. Emissaries were sent to accompany him southward, ostensibly that they might protect him, a denounced criminal, from any king's messenger who might recognise in the fugitive the chief of a band of Highland ruffians, who had slain in one raid a hundred and forty Lowlanders. Highlanders were not at

* MS. quoted, Pitcairn, ii., 435.

that time the object of pleasant interest which Sir Walter Scott's novels and the performance of "Rob Roy" on the London stage have since made them. Near the borders of their mountain strongholds they were regarded with intense terror; further off, in the Lothians and in Fifeshire, they were looked upon as the Romans looked upon the captive Gauls. They were a people who had elsewhere a ferocity productive of bloody events, who had been tamed and stripped of all their danger ere they reached these distant spots, yet imparted a thrill of interest from association with their latent ferocity, as the tiger is interesting in his cage. Thus the Macgregor could not have well passed through the Lothians without annoyance. He accepted, therefore, in all kindness and faith, a convoy from Argyle, to see him into English ground. This convoy crossed the Tweed with the exiled chief, and having seen him into English ground, according to the compact with Argyle, were so complaisant as to see him back again into Scottish ground, seizing him and dragging him to the northern side of the Tweed, where certain coadjutors were ready to receive the betrayed chief. Some historians comment on this event as an instance of gross treachery. The present writer, not driven to the alternative of justifying or excusing Argyle, has only to say that he

does not believe in the narrative of the incident. Lest he may be charged with mistelling the story to make it be discredited, it shall be told in the words of the best and briefest of the narrators of it, Sir James Balfour, the Lord Lyon:

"The 2nd of October, this year, the notorious thief and rebel, Alaster Macgregor, Laird of Glenstrae, who had escaped the Laird of Ardkinglase's hands, was taken by Archibald Earl of Argyle, who, before he would yield, had promised to him to convey him safe out of Scottish ground; to perform which promise, he caused some servants to convey him to Berwic, and besouth it some miles, and bring him back again to Edinburgh, where he was hanged with many of his kindred the 20th day of January."*

The chief, by way of distinction, was executed a "pin" or peg above the others. He left a confession or declaration which found its way into the national archives. It consists mainly of a recrimination against Argyle, whom he charges with being his Mephistophiles. This paper is, of course, worth no more as evidence than the other recriminations of malefactors; but it is, at all events, curious. It commences thus:

"I, Alaster Macgregor, of Glenstrae, confess here,

* Annals of Scotland, edited by J. Haig, i. 416.

before God, that I have been persuaded, moved, and enticed, as I am now presently accused and troubled for. Also, if I had used counsel or command of the man that has enticed me, I would have done and committed sundry high murders more. For, truly, since I was first his majesty's man,* I could never be at an ease by my Lord of Argyle's falsity and inventions. For he caused Maclaine and Clanchameron to commit hership and slaughter in my roum (realm or domain) of Renochie, the whilk caused my poor men thereafter to beg and steal. Also, thereafter, he moved my brother and some of my friends to commit both hership and slaughter upon the Laird of Luss. Also, he persuaded myself with message to war against the Laird of Buchanan, whilk I did refuse; for the whilk I was continually boasted that he would be my unfriend. And when I did refuse his desire on that point, then he enticed me with other messengers, as by the Laird of Macnachtane, and others of my friends, to war and trouble the Laird of Luss, which I behoved to do for his false boutgattis." This last word may be interpreted by circumventions. Thus, nothing but the insinuations of the subtle tempter Argyle, would have led his innocent, unsuspecting mind to

* Alluding to his having taken the oath, in 1596, to be "his majesty's household man."

authorise a raid to obtain 600 oxen and 800 sheep and goats. The "confession," as it is termed, proceeds in the same strain, and becomes perplexed and tedious. In one part it would appear that he charges Argyle with a promise to spare himself, and only sacrifice part of the clan, and compel the rest to resign their name. "He did entice me with oft and sundry messages, that he would make my peace, and save my life and lands, only to punish certain defaulters of my kin—and my innocent friends to renounce their surname and live peaceably. Upon the which conditions he was sworn by an oath to his friends; and they swore to me—and, also, I have his hand-writing and warrant thereupon." The confession winds up thus:

"And now, seeing God and man sees it is greedyness of worldly gear which causes him to putt at me and my kin, and not the weal of the realm, nor to pacify the same, nor to his majesty's honour—but to put down innocent men—to cause poor bairns and infants to beg—and poor women to perish for hunger when they are bereft of their gear. The which, I pray God that these faults light not upon his majesty hereafter, nor upon his succession. Wherefore, I would beseech God that his majesty knew the verity—that at this hour I would be content to take banishment with all my kin that was at

the Laird of Lusa's slaughter, and all others of them that any fault can be laid to their charge—and his majesty of his mercy to let poor innocent men and young bairns pass to liberty, and learn to live as innocent men. The whilk I would fulfil but any kind of fail; whilk would be more to the will of God and his majesty's honour, nor the greedy, cruel form that is devised, only for the love of gear, having neither respect to God or honesty."[a]

Those who have been engaged in Indian war or diplomacy know with what almost miraculous skill the oriental semi-savage, exposed and detected in his wiles, can assume the aspect of the simple, dejected victim of other men's craft and ambition. The criminal of civilised life is less successful, because he is less self-supported—his conscience misgives him, or he, at all events, feels himself too clearly seen through to believe that there is anything worth struggling for in great efforts of hypocrisy. But among some half-civilised races, it is but a hopeful exertion in a part of the discipline to which they are trained, to fawn and flatter, and plead injured innocence in the hour of adversity. Two other great Highland chiefs—Lovat, and the old Lord Breadalbane whose name is associated with Glencoe, were adepts in this mystery; and Macgregor of

[a] Pitcairn, ii., 425.

Glenstrae appears to have been no despicable performer. The belief in the thorough perfidy of his confession does not render it necessary to infer that either the government or Argyle held perfect faith with him. They would have thought it as preposterous as to offer a fair field to a hunted wolf.

The extreme difficulty of bringing the wild freebooters face to face with justice, is often shown in the number of years elapsing between the time of the offence and the day of trial. For twenty years after it occurred, there is a dropping series of trials relating to the field of Glenfruin. In one strange instance, an ally of the clan is indicted for "the cruel murder and burning of eighteen householders of the Clan Laren, their wives and bairns, committed forty-six years since, or thereby. Item, for art and part of the slaughter of umwhile Hugh Stewart, servant to my Lord of Atholl, committed thirty years past, or thereby."* From the same cause—the extreme difficulty of apprehending any of the perpetrators, the criminal records contain but faint and indistinct allusions to the invasions of the outlaws, only sufficient to show that they must have been a frightful scourge to the surrounding districts. On the 28th of July, 1612, a considerable band of them was brought up for trial. The

* Pitcairn, ii., 446.

measures for suppressing the name of Macgregor, to be afterwards noticed, had then been passed, and their futility is oddly enough illustrated by the first name on the list, which is "Gregor Beg Macgregor." The crimes with which they were charged are a strange mixture of the sordid and the sanguinary, as the following specimens, stripped of the lists of unpronounceable names with which they are entwined, may show. The chief matters of accusation are—"the treasonable raising of fire, burning and destroying the whole houses and buildings of Glenlocha and Achaleder; the slaughter of Maccallean, bowman to the Laird of Glenurquhy, with divers other persons, to the number of eight persons; stealing of six score kine and oxen furth of Glenlyon, committed in April, 1604; burning and destroying of the whole houses and biggings upon the forty merk land of Aberurchil, pertaining to Colin Campbell; burning of three young bairns, daughters of John Mackessock; stealing and away-taking of eighteen score cows, six score piece (or head) of horses, eight score sheep and goats, pertaining to the said Colin, and likewise for burning of the mill of Bolquhaster, with the whole houses and biggings upon the ground and lands, &c.; the stealing and away-taking furth of Glenfinlas of a great hership (plunderage) of kine and oxen, per-

taining to the Laird of Luss and his tenants; the slaughter of umwhile John Reid, weaver, and Patric Lang, servant to the Lord of Luss; for stealing and away-taking of a great number of goods, pertaining to my Lord Ogelvie, furth of Glenisla; and such like for taking and keeping of the island called the Island of Varnoch, against his majesty's commissioner; and harrying and oppressing of the whole tenants and inhabitants of the country about, taking and in-bringing of their whole goods and bestial, to the number of eight score kine and oxen, eighteen score sheep and goats, whilk were eaten and slain by them within the said island."* In a subsequent indictment, a parcel of the same band are charged with art and part of the stealing of certain kine and horses belonging to Walter Stirling of Ballagan; "art and part of the slaughter of John Macgillies, a fiddler, under my Lord of Tullibardine; the stealing of two horses from Macinnerich of Cregan, and breaking of ane poor man's house in Kinaldie; taking of the said poor man and binding up his eyes, and stealing and away-taking of the whole plenishing of the said house; stealing of a cow from Donald Macconnell; being in company with Duncan Macewan Macgregor, called the Tutor, at the burning of Aberurchel, where seven

* Pitcairn, iii., 222.

men were slain, three bairns were burnt, twenty kine and oxen were stolen, reft, and away-taken; assisting and taking part with the rebels and fugitives that took to the isle called Island Varnoch, and taking into the said isle of eight score kine and oxen, eighteen score sheep and goats, stolen, reft, and away-taken from the inhabitants of the country about." Finally, they are charged with "common theft, sorning, and oppression." The "said island," where so much stolen beef and mutton was consumed, is no other than "the Lonely Isle" of the "Lady of the Lake," where

> "The wild rose, eglantine, and broom,
> Wasted around their rich perfume;
> The birch trees waved in fragrant balm,
> The aspens slept beneath the calm."

The use made of the island as a safety retreat by the Macgregors, or Clan Alpine, in their hour of need, is indeed the legend round which the beautiful fictions of the poem are twined; and the critic of Scott's poetry will be glad to obtain this little insight to the habits of those who frequented so interesting a spot. We hear more of Island Varnoch in the desperate attempts by the privy council to surround and exterminate the "sorners and limmers." A proclamation, issued against them within three months after the battle of Glenfruin, required them to renounce their name, "and take to them

some other name, and that they and none of their posterity should call themselves Gregor or Macgregor thereafter under pain of death;" and this was confirmed on the ground that "the simple name of Macgregor did encourage that whole clan to presume of their power, force, and strength, and did encourage them, without reverence of the law or fear of punishment, to go forward in their iniquities."

A whole series of denunciatory acts, intended to hem the clan closer and closer in with enemies, began in 1610. On the 6th of September, the council announce that the extermination of the barbarous thieves and limmers is in such excellent hands, "that some good and happy mean is expected in that errand." But a fear is expressed lest they may have recourse to their old tricks, when thus hemmed in, and may make their escape by the lochs. All those who have boats on Loch Lomond, Loch Goyle, and Loch Long, are therefore prohibited from assisting in the flight of the Macgregors, their wives, or children. Those who allow them a passage on any pretence whatever, are to be counted abettors in their wicked deeds, and punished with the utmost rigour. The efforts to cut off their flight seem to have been effectual, for we find that they stood at bay in the safety retreat

on the island in Loch Catrine. "They have now," says the next proclamation, "amassed themselves together, in the isle of the loch of Loch Catrine, which they have fortified with men, victual, powder, bullets, and other warlike furniture, intending to keep the same as a place of war and defence, for withstanding and resisting of his majesty's forces appointed to pursue them. And seeing there is now some solid and substantious course and order set down how these *wolves* and *thieves* may be pursued within their own den and hole by the force and power of some of his majesty's faithful and well-affected subjects, who freely have undertaken the service, and will prosecute the same without any private respect or consideration,—necessary it is for the execution of this service that the whole boats and birlings being upon Loch Lomond be transported from the said loch to the loch foresaid of Loch Catrine, whereby the forces appointed for the pursuit of the said wolves and thieves may be transported into the said isle, which cannot goodly be done but by the assistance of a great number of people." The whole inhabitants of the neighbouring counties between sixteen and sixty are required to assemble for this strange labour. The Norwegians, in ravaging the west coast, dragged their galleys across the narrow low isthmus of Tarbet,

that they might more easily plunder the shores of Loch Lomond; but here it was proposed to drag the vessels over a mountain tract of five miles! But all was in vain. The next proclamation announces their escape, and heartily abuses those who had undertaken to exterminate them, since there is "not so much as ane mint or show of pursuit intended against them, but the undertakers, every one in their several discourses, doing what in them lies to vindicate themselves from all imputation of sloth, negligence, or neglect of duty in that point, highly to his majesty's offence, and fostering of the limmers in their rebellion and wicked deeds."

One of the acts of council passed in 1611 prohibited those living in the countries near the Highlands from selling arms to Highlanders without special authority, "to the effect, it may be clearly understood, that the said armour is not for the use or behoof of the Clan Gregor." A further effort was made to take edge tools out of these mischievous hands by a proclamation of 1613, "That no person or persons whatsoever who are called Macgregors, and keep that name, and profess and avow themselves to be of that name, shall at no time hereafter bear nor wear any armour but a pontless knife to cut their meat, under the pain of death." In the same year, another proclamation required that

none of the Clan Gregor, even though they had renounced their name, should convene and meet together in any part of the kingdom in greater number than four persons. These acts or proclamations were afterwards ratified by the estates of parliament,—they "remembering how that his sacred majesty being very justly moved with a hatred and detestation of the barbarous murders and insolencies committed by the Clan Gregor upon his majesty's peaceful and good subjects."

Along with these exterminating measures, there are, as it were, tracks of blood through the council minutes, showing that they sometimes met with a horrible success. In the disposal of captives, Argyle is allowed for his services "three or four of their lives," if he desire to spare so many, but "for the rest of those that come in will (that is, have surrendered), if any of them have killed a Macgregor as good as himself—two, three, or four of them which in comparison may be equal to him—and assuredly known to be his deed, his majesty is pleased he have a remission, with the other three or four which his majesty has granted to the Earl of Argyle, providing also that they find sufficient security for keeping of good order in time coming, and such sureties as shall content the council. And for such as are come in will, and done no service by

killing of the Macgregors, nor cannot find sufficient surety—that then the law to have his due course, and no favour at all to be shown.

"For such as are yet rebels and outlaws, after the council has considered of the roll presented unto them by my Lord Argyle, that there be no pardon granted unto any nor taken in will, *unless he present a better head—at least one as good as his own*—or such two, three, or more as shall be enjoined to him by the council. And for Robert Arroch, who is now chief of those who are presently out, that he be not pardoned unless he bring in at least half a dozen of their heads."

In the same spirit are the arrangements for the women and children. The wives were to be branded on the face with a red-hot key. They and their young were to be put at the disposal of the council, and any one harbouring them was to be treated as a Macgregor. The council intended "thereafter to dispose of them so as they shall think best for repressing such a generation, that they never come to such a head of insolency again." The partisans of the clan, who were spared, were required to live within the county of Fife, that being the district of Scotland deemed furthest from any temptation to resume their old freebooter habits. In 1612 the council congratulated itself that the Macgregors

still remaining at large, were "but unworthy, poor, miserable bodies." Yet within ten years,—in 1621, the council are as deeply perplexed as ever, and find that "whereas there is now a new brood and generation of this clan risen up, which daily increases in number and force, and are begun to have their meetings, and goes in troops athwart the country armed with all offensive weapons, and some of the leaders of them, who once gave their obedience and found caution, are broken loose, and have committed sundry disorders in the country;" and then, getting more eloquent and indignant, the council denounce them thus: "Preferring the beastly trade of blood, theft, reiff, and oppression, wherein unhappily they were brought up, to law and justice, they have broken loose, and have associated to them a number of the young brood of that clan who are now risen up, and with them they go in troops and companies athwart the country, armed with bows, darlochs, hacbuts, pistolets, and other armour, committing a number of insolencies upon his majesty's good subjects in all parts where they may be masters, and they do what in them lies to stir up the whole clan to a new rebellion, highly to his majesty's offence, and the contempt and hurt of his good subjects."

His majesty, in fact, as represented by his own

council, appears to have been both perplexed and infuriated into a fit of impotent railing, since, in the midst of some laudations on his own great clemency, we find him thus crying out in the minutes of the council: "Forasmuch as the king's majesty having tane great pains and travails, and bestowed great charges and expenses for suppressing of the insolencies of the lawless limmers of the clan, whilk formerly was called Clan Gregor, and for reducing of them to obedience; and his majesty, in his just wrath and indignation against the whole race, having abolished the name thereof as most infamous, and not worthy to be heard of in a country subject to a prince, with majesty, power, and force to execute vengeance upon such wretched and miserable caitiffs as dare presume to lift their heads and offend against his majesty and his laws," &c.

In the year 1630 the records of the council show that they have come back to the same subject—as far as ever from their proposed end, but not less indignant and vituperative. After a long head-roll of the chief offenders, who are as usual denominated lawless limmers, it is stated, that they have united themselves with other broken clans to renew their accustomed and wicked trade of theft and stouthrief, wherein they are tauntingly informed that numbers of their wicked and miserable predecessors

ended their lives. They go, as of old, in troops athwart the heads of Menteith and Stratherne, where they not only commit private depredations but open ravages, threatening with fire and sword such of his majesty's good subjects against whom they have quarrel, and who profess to oppose and resist their thievish and lawless doings. "Wherethrough," continue the bewildered privy council, "the peace of the country is far disturbed, and his majesty's good subjects distressed in their persons and goods, to the great contempt of law and justice, and disgrace of his majesty's authority and government. And whereas it is a great discredit to the country that such an infamous bike (or hive) of lawless limmers shall be suffered to break loose, as if his majesty's arm of justice were not able to overtake; therefore," &c. And so follow new authorities to the enemies of the clan "to besiege their strengths with fire and all kinds of warlike engines, that justice may be ministrate unto them." The besiegers and pursuers are affectionately desired to set themselves steadily to the work before them, without heeding collateral consequences; and whatever mutilation, slaughter, "or other inconvenience," to any of the king's lieges may occur in the conflict, the inflicter is to suffer no pain or penalty for it, but to be held as having done good service.

And so the denunciation proceeds in terms seeking to be new, but bearing so tedious a uniformity of character to those previously adopted, that the council had evidently exhausted every form of wrath and vengeance in its previous efforts, and was all vainly grasping at something new.*

The council having exhausted all its efforts in vain, it was probably considered a happy thought to try what parliament could do, as the rector's authority is resorted to when the birches of the ushers have failed to infuse a salutary awe. In 1633 was passed an "act anent the Clan Gregor." This act does little more than ratify the denunciations of the council in the same indignant phraseology; and we need not dwell on its contents, as they can be seen at length in the Scottish statute-book. It imposed penalties on clergymen christening infants with the name of Gregor, and on notaries employing the surname of the clan in legal documents.

A provision was made for the clan coming one by one to the privy council, and finding security for their good behaviour. But the sorners and limmers believed in a punic faith which they had no Roman virtue to sacrifice themselves to; and they prudently declined to go below the passes. Next year we find

* Records of the Privy Council of Scotland, MS., General Register House.

the privy council at work again as hopelessly as ever. An excellent and reasonable act has, they assure the country, been passed in his majesty's last parliament, permitting the limmers to make their appearance before the lords of his majesty's privy council, and there find security for their good behaviour; "and though it was expected," continue my lords, with much simplicity, "that those of the Clan Gregor should have embraced his majesty's favour shown unto them, and should have given their compearance before his majesty's council to the effect foresaid, yet few or none of them has compeared, but has neglected their duty and obedience in that point." The council profess themselves "loath to take that advantage of the said clan which their contempt and disobedience deserves;" and so they give the limmers another opportunity of coming to Edinburgh and finding security, before relaunching against them those efforts of vengeance which previous experience had shown to be so hopeless.

At this time the clan possessed a brigand leader, who obtained more contemporary fame than even his celebrated successor, Rob Roy. His name was Patrick Macgregor; but he was known to fame by the descriptive epithet of Gilroy, or Gilderoy, the Red Gilly or youth. He has been celebrated both in prose and rhyme. A well-known and long

popular ballad, which laments the untimely fate of so many virtues and accomplishments, commences thus:

"Gilderoy was a bonny boy,
Had roses till his shoon;
His stockings were of silken soy,
Wi' garters hanging down.
It was, I ween, a comely sight
To see sae trim a boy;
He was my joy and heart's delight,
My handsome Gilderoy.

"O sic twa charming een he had,
Breath sweet as any rose;
He never wore a Hieland plaid,
But costly, silken clothes.
He gained the love of ladies gay,
Nane e'er to him was coy.
Ah! wae is me, I mourn the day
For my dear Gilderoy."

This is a somewhat Arcadian sketch of the red-haired Highland riever; but truth glimmers through the poetry of the widow's lament as it proceeds, and develops that propensity to convert *tuum* into *meum*, which was at the root of all the woes of the Macgregors:

"My Gilderoy, baith far and near,
Was feared in every town,
And bauldly bore away the gear
Of many a Lowland loon.
For man to man durst meet him nane,
He was so brave a boy;
At length wi' numbers he was tane,
My winsome Gilderoy.

"Wae worth the louns that made the laws,
To hang a man for gear,
To reave of life for sic a cause
As stealing horse or mare!
Had not their laws been made sae strick,
I ne'er had lost my joy;
Wi' sorrow ne'er had wat my cheek
For my dear Gilderoy."

We shall now turn to a portrait of this hero in harsher, but rather more truthful colours. The reader may, or may not, be acquainted with a folio volume, illustrated with a few grotesque engravings imitated from Hogarth, and called, "History of the most famous Highwaymen, Murderers, Robbers, and Pirates, with their Trials." The fundamental element of the book is the history of contemporary crimes and criminals while highway robbery was at its climax; and many a time have these coarse but truthfully-impressive narratives of crime, prolonged the lingering of the absorbed group around the winter hearth, and disturbed their sleep by fashioning the casual midnight sounds into the creaking of timber beneath a furtive tread, or the stifled groan of some victim of the knife. But he who desires to consult this emporium of crime, must find the earliest and rarest edition,* since, in those of later date, many of the most grotesque and strange narratives have been, for some purpose or

* London, 1734.

other, suppressed. Among these there are a few which, like the memoir of Gilderoy, relate to a time and country which were not those of the author, and to social conditions which he neither knew nor could accurately imagine. Though in these the falsehood largely predominates over the truth, yet the very grotesqueness of their anachronisms, like pictures of Garrick acting Macbeth in a laced waistcoat and powdered wig, make them curious and amusing. Some of these grotesque sketches relate to Scotsmen, and among them is a memoir of the illustrious Gilderoy.*

The mountain freebooter is converted into an English highwayman. Tradition marked him as a man of family, and therefore Johnson makes him pass into his career of vice through the same process which might bring a well-connected young miscreant of Yorkshire or Cheshire to the highway. Thus—"His father died just as he was of age, when, leaving him an estate of 80 marks a year, he

* Among Captain Johnson's Scottish ruffians, there is a certain Sawney Beane, an anthropophagist, the patriarch of an extensive clan or progeny—for they were all descended from himself—who lived in a vast cavern, and fed on human flesh. The memoir is accompanied with an appropriate plate, representing Sawney at the mouth of his cavern, looking abroad for victims, while a female descendant conveys two human legs within the cavern to be put in pickle. The gang, it appears, were not discovered until the extent of their appetites produced a sensible effect on the national census.

thought himself fully capable to the management of it without the advice of his friends, by which means he, in short, managed it all away, and ran through it in about a year and a half; upon which he soon became very needy, and a fit subject to be moulded into any shape which had an appearance of profit. Having thus, by his irregularities, reduced himself to a very poor condition, he was very burdensome to his mother, who often supplied him with money out of her jointure, which he always quickly consumed; but she, perceiving that no good admonitions would reclaim his extravagancy, withheld her hand, and would not answer his expectation; whereupon, lying at her house one night, he arose, entered his mother's bed-chamber, cut her throat with a razor, and then plundered and burnt the house to the ground."

His next adventure is of a totally different character, and has probably been borrowed from some French novel or adventures of Cartouche. We are to suppose him dressed like a courtier, and attending in the royal church of St. Denis, while Richelieu performs high mass in presence of the king. Gilderoy, having a design on the cardinal's purse, winks to his majesty to secure his connivance at a good joke, while the purse is abstracted. The king witnesses the operation with great satisfaction,

and does his part by stepping up to the cardinal, and desiring to be accommodated with a trifling sum of money, when the loss is, of course, discovered. "The king, knowing which way it went, was more than ordinarily merry; until, being tired with laughter, he was willing that the cardinal might have again what was taken from him. The king thought that he who took the money was an honest gentleman, and of some account, as he kept his countenance so well; but Gilderoy had more wit than to come near them, for he acted not in jest, but in good earnest. Then the cardinal turned all the laughter against the king, who, using his common oath, swore, by the faith of a gentleman, it was the first time that ever a thief had made him his companion."

The feats attributed by this authority to Gilderoy in his own country are not less remarkable and eccentric. He seems to have anticipated, in a highly tragic form, the idea of that constable who, according to Scott, placed his boy in the unoccupied stocks at the gate of Glammis Castle for the sake of uniformity, because there was a vagrant stocked on the other side of the gate. Three of his followers had been condemned, executed, and hung in chains. According to a common practice, the scaffold from which the rotting bodies were

suspended was circular and wheel-shaped, and was fixed on the top of a strong beam, passing into the central socket like an axle. In Captain Johnson's words, it "was made like a turnstile, only the beams on each end of which is nailed a strong iron hook to which the rope is fastened, has no motion." Now the gallows was adapted for four; but there were only three hanging on it, and the general effect of the tragic exhibition was unsymmetrical. The judge who had condemned the three to death being on his way towards Aberdeen, where he was to hold a circuit court of justiciary, was attacked and taken captive by the outlaw leader. Deliberating on the proper destination of so precious a spoil, a savage impulse of practical sarcasm prompted him to complete the quadrangular uniformity of the gallows by there hanging the judge, and he did so accordingly. The mangled use of Scottish language, phraseology, and names, shows that Johnson's history is by no means entirely imaginary. It must have been founded on native authority, and is probably a decoration of the narrative contained in some contemporary chap book. He concludes thus his account of the comic tragedy:—"'Now,' said Gilderoy to the judge, 'by my soul, mon, as this unlucky structure, erected to break people's craigs, is not uniform without a fourth

person taking his lodging here too, I must e'en hang you upon the vacant beam.' Accordingly he was as good as his word; and for fear the government should not know who was the hangman, he sent a letter to the ministers of state to acquaint them with his proceedings. This insolence caused the legislature to contrive ways and means to suppress the audaciousness of Gilderoy and his companions, who were dreaded far and near; and among them, one Jennet, a lawyer, promoted the law for hanging a highwayman first and judging him afterwards; which law being approved of, it received the sanction of the government without any contradiction, and was often put in force against gentlemen of the road."

The invention of "one Jennet, a lawyer," is a ridiculous enough gloss on the term Jeddert justice, or the practice of the citizens of Jedburgh, who had the reputation of rigorously and impartially investigating the charges against an enemy from the English border after they had put him to death.

But some passages in Captain Johnson's history are more veritable and life-like. Thus—"In a little time his name became so dreaded through the whole country, that travellers were afraid to pass the roads without a great many in company. And

when money was short with him, he would enter into Atholl, Lochaber, Angus, Mar, Buquhan, Murray, Sutherland, and other shires in the north of Scotland, and drive away the people's cattle, unless they paid him contribution, which they did quarterly, and had his protection."

One feat attributed by the captain to his hero is so remarkable, that it must be conveyed in his own words:

" When Oliver Cromwell embarked at Donnachadee, in the north of Ireland, and landed at Portpatrick in Scotland, the news thereof came to Gilderoy, who was then lurking in the shire of Galloway; accordingly, he met him on the road towards Glasgow. Cromwell having only two servants with him, he commanded him to stand and deliver; but the former, thinking three to one was odds, refused to obey. They then came to an engagement, and several pistols were discharged on both sides for nearly a quarter of an hour, when the bold robber pretended to yield his antagonists the day, by running as fast as he could from them. They pursued him very closely for near half an hour; and then, suddenly turning upon them, the first mischief he did was shooting Oliver's horse, which, falling on its side as soon as wounded,

broke the Protector's leg. As for his servants, he shot one of them through the head, and the other begging quarter, it was granted. But Oliver being disabled, he had the civility to put him on an ass, and, tying his legs under his belly, sent them both to seek their fortunes."

The captain proves nothing by this narrative but his acquaintance with the legend of the Horatii and his Royalist predilections, which had induced him to place old Noll in a ludicrous position. If the story could command a moment's credit, it would immediately be contradicted by dates, since, in the succinct words of old Spalding's Chronicle, "Gilderoy, with five other limmers, were taken, and all hanged to the death," on the 29th of July, 1638—a time when Cromwell, an embarrassed young country gentleman, was more likely to be found attempting to emigrate to America, than returning with bloody laurels from Ireland.

Gilderoy commanded a large and formidable band. Their operations were not confined to the Lenox and other cultivated straths immediately adjoining the country of the Macgregors, but had a range of some hundreds of miles along the country which had the misfortune to border on the Grampian mountains. Wherever there was negligent watching of the cattle, or disputes and dis-

turbances, the freebooter would pounce on the devoted spot and relieve it of its animal inhabitants. Several of his gang were taken and executed before he could be caught. "Thir loons," says Spalding, "were taken by the Stewarts of Atholl, by persuasion and advice of the Lairds of Craigievar and Corse, whereof there were seven hanged altogether at the Cross of Edinburgh, and their heads set up in exemplary places. The eighth man got his life, because it was confessed he was drawn to this service against his will. Gilderoy seeing this —his men taken and hanged—went and burnt up some of the Stewarts' houses in Atholl, in recompense of this injury."*

The fortune of apprehending the leader fell to the old enemy of his tribe, Argyle. On the 7th of June, 1636, the privy council find that he, "out of zeal and affection for his majesty's service and peace of the country, has carefully bestirred himself, and now in end successively taken the arch-rebel Patrick Macgregor, *alias* Gilroy, with some of his accomplices, by whom his majesty's good subjects in the Highlands and north parts of this kingdom has been this long time bygone heavily infested in their persons and goods." It is found that he "has behaved himself as a *generous* and loyal subject, and

* Memorials of the Troubles in Scotland, i., 69.

that he has done good, real, and acceptable service to his majesty and the state."

The charge against Gilderoy very much resembles those which we have already seen against his predecessors. Plunder is at the root of all, and bloodshed follows as an accidental condition of the accomplishment of the main object. After so much royal and official exultation at the capture of the rebel and traitor, the indictment, commencing with the charge of "usurpation of our sovereign lord's power and authority," sets forth particulars which might be held to fall short both of the solemnity and the atrocity of the general charge. Thus one of the specific accusations in the indictment is—"Item, for art and part of the theftuous stealing of *four hens*, about Lambmass, 1635, pertaining to the goodman of Colquharnie." It was probably difficult to find evidence of the specific acts of outrage, and necessary not to lose sight of any that could be proved, however insignificant. After an enumeration of depredations, rather more important in their character, and embracing a tedious list of cows, oxen, horses, furniture, goods and gear, insight plenishing, rents and evidents, &c., with casual acts of kidnapping and slaughter, there is a general charge "for sorning with your accomplices these three years bygone through the whole bounds of

Strathspey, Bracmar, Cromar, and countries thereabout, oppressing the whole common and poor people, violently taking and riveing from them of their meat, drink, and all provision, with their whole goods, &c., and for common theft and reset of theft." The record bears that Gilderoy and his band were convicted on their own confession, which, as they could not speak in any language intelligible to the court, was interpreted by Stewart of Ardvoirlich. Confession is a strange and unaccountable act for such men spontaneously to commit in the full assurance of the gallows, and one cannot help suspecting that there must have been foul play in this matter. Along with a coadjutor named Forbes, Gilderoy enjoyed the honour of the gibbet on which they were hanged being raised "one great degree higher nor the gibbet whereon the rest shall suffer." His head and hand were affixed on the east or nether-bow port of Edinburgh.

Thirty years now elapse ere another distinguished leader of the clan gives work to the hangman. On the 25th of March, 1667, Patrick Roy Macgregor was brought to trial for theft, sorning, wilful fire-raising, robbery, and murder. He was at the head of a band of desperate banditti, numbering about forty. His latest exploit was an attack almost of the nature of a siege, made on the small town of

Keith, in Banffshire, at which he was wounded and made prisoner. The deed for which he was tried was a midnight attack on the house of Bellkirrie, and the murder of its inmates, Lion of Muiress and his son. The elder victim appears to have secured the vengeance of the banditti, by having brought some of them to punishment for sorning on his lands. His own house was perhaps not so accessible as Bellkirrie; for the news of his visit to his son there, seems to have put the band of freebooters in immediate motion. The indictment charges the murderers with having accepted a capitulation from the victims, with a condition that their lives were to be spared. Patrick Roy did not confess the deed, like his predecessor of greater notoriety; and the records therefore contain the substance of the evidence against him.

James Urquhart, of Camishuin, the principal witness, stated that, while Muiress was with his son, hearing that the freebooters were in the neighbourhood, they took care to house the horses and cattle. The whole household had gone to bed when Roy commenced his attack. The building was low, and thatched; and when the besiegers had collected a quantity of straw from the barn-yard, and "built it," as the witness describes, round the house, the inmates were first awakened to a sense of their

danger by a circle of stifling flames, from which there was no escape, save into the hands of their enemies, surrounding the house to the number of eighteen or twenty. This witness spoke distinctly to the stipulation on which the inmates yielded. "And after Muiress and those that were with him had come out of the house, they (the freebooters) did seize upon and take away the horses to the number of five or six, and their arms—and that Roy took and did wear Muiress's own buff coat and his carbine—that they did carry away with them Muiress and his son, and those that were with him, on Muiress's own horses—and that Roy, and Drummond, and others, his accomplices, did ride before and behind them upon the said horses." The witness further said, that he and his companions were removed as prisoners, but "were dismissed the same day, being, before they were dismissed, made to swear upon their dirks that they should not tell where Muiress was, or what should become of him." The next witness, Cruikshank, confirmed this statement; and in continuation, narrated, "That Muiress and his son were carried up and down, from place to place, through the mountains, from Sunday morning, that they were taken—being the 8th—until Wednesday before night that they were murdered, without giving them meat or drink. That they and

Drummond did, about twelve o'clock the day they were taken, leave the prisoners with their complices, and did go away to Ardkingcline on Muiress's horses upon the said day, being Sunday, and did not return until Wednesday thereafter—the day that Muiress and his son were murdered—and that after they had returned, which was about two o'clock, Muiress, having desired Thomas Gordon, who, having been sent to Muiress with a letter from Baldovine, and spoke Erse, to see what they intended to do with them, he heard the same Thomas answer him by order of Roy, in English, that he should make him, before his God, very quickly—or such like words." The witness said that they threw a dirk at himself, and threatened him with death. He was removed at the time of the committing of the murder, and the person in charge of him professed, that he had received instructions to put him to death also, but was induced to spare him. His testimony, like that of the other witnesses, terminated with the statement that the prisoners enjoyed in the country the character of being "broken men, thieves, and sorners." None of the witnesses saw the actual perpetration of the murder; but the bodies were found pierced with dirk wounds. The Macgregors were found guilty. Their sentence was, that they were to be hanged, "the right hand being previously

cut off, and their bodies to be hung in chains on the gallow-lee."*

Robert Macgregor, from the epithet Roy, must have been red-haired—a prevailing characteristic of the chief men of the Clan Gregor—whence some ethnologists would infer for them a Scandinavian origin. One of the judges of the court before which he was tried, Lord Pitmedden, has left this brief notice of the appearance and demeanour of the Highland brigand. "He was of a low stature, but strong made; had a fierce countenance—a brisk, hawke-like eye. He bore the torture of the boots with great constancy; and was undaunted at his execution, though mangled by the executioner in cutting off his hand; for which the executioner was turned out."†

The political revolutions of the country had, in the mean time, curiously affected the nominal position of the clan. Their turbulence, under the rule of the Presbyterians and of Cromwell, was interpreted as loyalty to the house of Stewart, and, in the year after the Restoration, the acts against them were repealed. In 1691 they were reimposed by the revolution parliament. The change but little affected the position of the Highland freebooters,

* Records of the High Court of Justiciary, MS. General Register House.

† Abstract from the Books of Adjournal, MS. Ad. Lib., p. 804.

against whom there was always a vital enmity, which required no orders in council or acts of parliament to keep it alive. But it seriously affected those who, in the interval, had established themselves in peaceful pursuits among the Lowland towns. Thus, in 1695, a certain Evan Macgregor, describing himself as a merchant, residing in Leith, and master of a manufactory in Edinburgh, applied to parliament, stating that he had borne the name during the interval of toleration in the pursuit of his business, and representing that—"It is evident, on the one hand, his continuing the said name can be no prejudice to any design, ever was, or now may be, for the general peace, and in order to the greater quiet of the Highlands; and, on the other hand, that his discontinuing of the same cannot but bring a great confusion upon his trade and all his affairs, which may in effect tend to his utter ruin." He states that the act has affected him in mercantile transactions, by affording an excuse to those who were indisposed to honour their bills or pay their accounts, "which he humbly supposes was never thereby intended." Parliament solemnly adjudged that the act "shall not be extended to the petitioner residing in Leith, and living in the Lowlands; and hereby allows him to use the name of Macgregor,

but refuses that privilege or exemption to his children or posterity; and ordains the petitioner to give in a condescendence this night of what surname he will give his children, to the effect the same may be marked in the minutes of parliament."

We now come, in chronological order, to a name which might be expected richly to continue our record of iniquities—that of Rob Roy, the hero of Scott's magnificent romance; but, singularly enough, little can be legitimately said of him in a narrative drawing its materials from criminal trials. But for the fortuitous illumination of fictitious literature, he would, indeed, have been just now no more distinguishable in a list of the half-freebooter, half-drover scamps with whom he was associated, than Macbeth, but for a similar illumination, would have been distinguished from a dreary catalogue of half-mythical monarchs with uncertain names. Rob Roy, in fact, was not so much a criminal as a scamp; and his misdeeds, instead of the burnings, sieges, and murders which blacken the memory of his predecessors, are associated with dishonoured bills, fraudulent bankruptcy, and swindled cattle-dealers. Scott himself, in fact, had not discovered the true character of his hero until after he had written the romance; and his evident mortification, as, in the introduction

to the later editions he brings out each act of petty rascality, is a little ludicrous. Yielding to the law which proscribed the name of Macgregor, Rob adopted that of Campbell, in which he figures in some "leading cases," which show lawyers how to give check-mate to subtle debtors endeavouring to evade the pursuit of their creditors. Thus, of date the 16th of January, 1713, Sir Hew Dalrymple commences the report of a case with the following far from heroic narrative:

"Robert Campbell, alias Rob Roy, draws a bill upon Graham of Gorthie, payable to the drawer, which Gorthie accepted; and the drawer having indorsed that bill to Hamilton of Bardowie, about the same time the indorser broke and fled." Gorthie thereupon raised certain legal proceedings, in which there was the following history of facts:—"That the cause of the bill was a contract of the same date, whereby Rob Roy was obliged to deliver to Gorthie a certain number of Highland cattle: that he had made the like bargains with a great many gentlemen who had trusted him with money, in contemplation of receiving the value in cattle; and having thus amassed a great sum of money in his hands, he did most fraudulently withdraw, and fled without performing anything on his part, and thereby be-

came unquestionably a notour and fraudulent bankrupt."*

It is probable that bankruptcy, so dreadful to the members of our artificial system, as it is termed, brought very little change to Rob's condition; "for in the principles of things he sought his moral creed," and it is then that we can best picture him saying, according to Wordsworth,

> ——— "What need of books?
> Burn all the statutes and their shelves;
> They stir us up against our kind,
> And worse—against ourselves.
> The creatures see of flood and field,
> And those that travel in the wind.
> With them no strife can last—they live
> In peace—and peace of mind.
> For why?—because the good old rule
> Sufficeth them—the simple plan,
> That they should take who have the power,
> And they should keep who can."

Rob was ostensibly a dealer in cattle, and he cared not very particularly how he came by them. He often exacted that celebrated tribute called black mail, for the protection of the fruits of Lowland industry; and as often, by the suspicions raised against him, rendered it prudent to pay tribute to other protectors. The arrangements for the payment of black mail for some years after his

* In the Introduction to "Rob Roy," there is a copy of an advertisement in the *Edinburgh Courant* as to these transactions.

death, show that the staple occupation of the Clan Gregor—cattle-lifting, as it was called—had not become obsolete; and, at the same time, they indicate that the determined and systematic efforts of the sufferers were drawing close to the accomplishment of its suppression. In the old statistical account of Scotland is printed perhaps the latest bond for payment of black mail known to be extant. It is dated in 1741, and relates to the lands immediately adjoining the Macgregor country. It is a systematic contract, in which Graham of Glengyle, the nephew of Rob Roy, agrees, for a mail of four per cent. on the valued rent, to protect the "gentlemen, heritors, and tenants within the shires of Perth, Stirling, and Dumbarton," who subscribe it. He engages to hold those who agree to pay tribute to him "skaithless of any loss by the away-taking of their cattle, horses, or sheep;" and the obligation on both sides is so arranged, that the payment of the tribute to Graham, and his compensation for any cattle proved to be stolen, could be made good in the courts of law. Such remedies, however, were only partial. The thieves having behind them virtually infinite resources, in the vast mountain region to the north and west, established a judicious system of exchanges. If Glengyle, with a *posse comitatus* from the Lenox or the Carse of Stirling, pene-

trated into the fastnesses of the Macgregor country, they might see cattle, and might know them to have been "lifted," as surely as the detective policeman knows the gold-capped and jewelled watch found in the tramp-house to have been stolen; but no man could identify his own cattle. Those swept from the Lowlands of Lanark or Stirling were far off among the mountains beyond the Muir of Rannoch; those lifted in Aberdeen or Moray were transferred to the Macgregor country. The "sorners and limmers" had often great gatherings for the exchange of stolen cattle. They met armed, and, amid libations of whisky, sometimes transacted a little political business for the exiled house of Stewart, or rather against the existing government, for their interest lay more in pulling down than setting up.

In the year 1744, Evan Macpherson of Cluny, a chief of great influence, undertook what was called "a watch," "for the security of several counties in the north of Scotland from thefts and depredations." The function was pressed upon him at a meeting of the landowners most sorely pillaged; and, though they agreed to pay him a certain tribute, it was not the accomplice's bribe, like the old black mail, but a contribution towards the heavy expense of supporting a Highland police.

So completely had a large portion of the Highlanders been accustomed to live on the fruit of other people's industry, that the strict operation of Cluny's watch is said to have involved them in dreadful misery.*

Still all these remedies were partial and ineffective, and the practice did not come to an end until the constitutional reformation following the rebellion of 1745 swept before it the predatory propensities, as well as the warlike habits of the Highlanders.

But, returning to the Clan Gregor and their achievements, as recorded in the proceedings of the penal tribunals. If all that can be said of Rob Roy himself may be called an unexpected blank, we shall find the ancient spirit reviving in his sons, who aimed at nobler predatory game than cattle. One of these sons is named in the record "James Macgregor, alias Drummond, alias More," and to make his identification more complete, he is described as an outlaw, for taking to flight when charged with the murder of John Maclaren of Wester Inernenty. The indictment, which is the only statement we possess of the nature of this crime, attributes the motive to a belief among the

* Watch undertaken by Macpherson of Cluny, Miscellany of Spalding Club.

Macgregors that Maclaren was about to take a lease of a farm called Kirktoun, occupied by the mother of the young Macgregor, Rob Roy's widow—the heroine of the novel. The assassination, as described in the same document, was performed in the simplest of manners. "When the said John Maclaren was holding his own plough, with which he was labouring the ground, you, with a loaded gun in your hand, came behind his back, and cruelly and barbarously discharged the gun upon him, whereby he was wounded in the thigh, or some other part of his body, of which wound or wounds so given he died in a few hours thereafter that same day."

In the proceedings on which we shall enter more at length, this James Drummond was associated with a brother, called Robert Macgregor, alias Campbell, alias Drummond.

In the old mansion-house of Edinbellie, within a few miles of the pass of Aberfoyle, there lived in the winter of 1750 a young heiress named Jane Key. Though not nineteen years old she had been nearly two months a widow, and had returned on her husband's death to the shelter of her mother's roof. On the night of the 8th of December, when the family circle were assembled, they were alarmed by such sounds as used of old to announce the forays

which the law had recently been strong enough to put down. The doors were burst open, and several armed Highlanders, with Rob Roy's sons at their head, broke in upon the household. The young widow was naturally the first to flee for safety, and had time to hide herself in one of the many recesses of the old mansion ere the ruffians reached the sitting-room. Finding her gone, they seized her mother, and, by threatening "to murder every person in the family, or to burn the house and every person in it alive, unless the said Jane Key should be produced," discovered the poor girl's hiding-place. She was told that an ardent affection for her person had prompted this outrage, and that Robert Macgregor had adopted these unusual means for overcoming the difficulties he might meet in aspiring to her hand; and she was told this in a manner to show that she was the spoil of the conqueror's sword, and must comply. "And upon her desiring," says the indictment, in its technical language, "to be allowed till next morning, or for some few hours, to deliberate on the answer she was to give to so unexpected and sudden a proposal as a marriage betwixt her, then not two months a widow, and a man with whom she had no manner of acquaintance. After some further discourse, or expostulation, you, the said James Macgregor, or one or other of your accomplices, laid violent hands

upon the said Jane Key, within her own dwelling-house as aforesaid, and in a most barbarous, cruel, and most unbecoming and indecent manner, dragged her to the door, while she was making all the resistance in her power, and crying out for help and assistance, and uttering many bitter lamentations; and after she was thus dragged to the door, you and one or other of your accomplices did, with force and violence, most barbarously and inhumanly lay the said Jane Key upon a horse, placing her body across the horse, upon the torr or forepart of the saddle, after having tied her arms with ropes. And during all the time these barbarous and horrid outrages were acting, you and your accomplices, or one or other of you, did threaten, with execrable oaths, immediately to murder every person who should offer to give the said Jane Key the least assistance."*

She was thus conveyed to Rowerdennan on Loch Lomond. The tourist who sojourns for a short time at this lovely spot, before crossing the lake, or attempting the ascent of Ben Lomond, will scarcely, in the midst of so much tranquillity and beauty, be able to realise the horrible position of poor Jane Key in the hands of the hereditary enemies of her house and of her race; the ruthless, lawless tribe, whose savage ferocity had been the theme of all household

* Justiciary Papers, Advocates' Library.

horrors, from the nursery-tale inflicted on the rebellious infant, to the sanguinary legend which roused the interest of the sleepy circle round the smouldering turf. It was among the families and communities, who were nearest to their mountain homes, that the Highland outlaws had established the greatest dread and horror; and by the heiress's family their neighbours above the pass had, for generation after generation, been viewed in the same light as the Red Indian was by the Canadian settler. And it was among these men that she now found herself, as helpless and as far removed from succour as if the law had not recently professed to assert its supremacy. But it was not their object to do her any further injury than what was necessary to give them the command over her estate. To this end it was essential that the possession of her person should be sanctified by the rites of matrimony—the more solemnly performed the better. Warrants were issued against the marauders, and a body of troops was sent to aid the civil power; but the ruffians conveyed their prize from place to place among the hereditary fastnesses of the Macgregor country, and before they could be interrupted, a clergyman, acting under their orders, had celebrated her marriage with Robert Macgregor in due form.

Thus baffled, the relations of the heiress resolved

to take up their position in the final object of attack—the citadel as it were—and took measures for placing her property under trust. The ruffians, no doubt, believed that they would persuade her, for the sake of worldly appearances, or of many of those multitudinous influences which guide the female heart to gentleness and self-sacrifice, silently to justify this rough wooing; and, giving the chosen brother, in the eye of the world, the place of her lord and husband, thus enable him to obtain her property. The court of session, on the application of her relations, placed her property under trust, with a view of applying the proceeds in relieving the heiress from captivity and bringing the kidnappers to justice. The result of this showed how accurately the Macgregors' views had been solved. It was now necessary that everything should be braved to acquire for Robert the position of the accepted husband of his victim, and the removal of the property from their grasp drew one of them out of that den from which the law and the sword were alike unable to drive him.

Now occurred a circumstance which, in a remarkable shape, shows the feebleness of the law a century ago even in the capital of Scotland. Jane Key—or as she was now called, Mrs. Drummond—paid a visit to the metropolis. Her husband did not accompany her; he might be seriously occupied

with his extensive transactions in sheep and cattle. The brother James, however, having less to do, kindly attended his sister-in-law. While they were thus apparently under the eye of the world, an application was made to the court of session in proper official form in the name of Jane Key, desiring that her property might be restored, declaring that she was the willing and affectionate wife of Robert Macgregor, or Drummond, and that the forced abduction was a little farce got up by herself, to save appearances and avoid the impertinent ridicule that might have persecuted her for yielding to a passion matured within two months after her husband's death. The court looked with supreme suspicion on this document, as well they might. Nor did it clear the case, that a letter was produced, signed, but not written by Jane Key, and dated twenty days before the abduction, in which she invited Macgregor to come and seize her. It was considered necessary to examine Jane Key as a witness for the crown in the proceedings preliminary to a prosecution; and the record bears that "She acknowledged that she had been with the persons against whom the warrants had been granted on her account; and that she was, upon the Monday after she was taken away, married to the said Robert Macgregor, alias Drummond, by one who signed

his name *Smith*, and that she inclined to adhere to the marriage."

Among the deep narrow winds, and mountainous edifices of the Old Town of Edinburgh, a Scotsman's house was much more of a castle than an Englishman's. The scanty police were allof an external, street-parading character; and men backed by followers could isolate themselves both from authority and observation, and conduct schemes of domestic tyranny with impunity. Conscious of such facilities, the court of session "sequestrated" the heiress, and removing her from her alleged husband, appointed for her a place of abode in the house of an acquaintance, whose character and social position might secure her from foul play. The magistrates of Edinburgh were enjoined to have a charge over her. Sentinels were placed round the house; and it was an instruction to them, that, without interrupting social intercourse with friendly visitors, they were not to permit any large number of persons to enter the house. Such were the precautions deemed necessary for asserting the authority of the law close to its very fountain-head. After she had been for some time thus protected, she was again examined, and she then bore testimony to the whole tissue of violence and fraud of which she had been the victim.

James Drummond was brought to trial. A long legal dispute arose on the question whether the verdict of the jury was or was not a conviction; and in the mean time the criminal escaped, and the poor victim died. Robert Macgregor, who acted the part of the husband—but who is supposed to have been the less guilty of the two brothers—was afterwards caught, tried, convicted, and hanged. James lived in France with the Jacobite refugees, and other gentlemen who had found it convenient to quit their native shore. A small job in the way of his business was put in his hands soon after his retreat; but he failed satisfactorily to accomplish it. Allan Breo Stewart, of whom an account will be given further on, had made his escape under suspicions very close to assurance that he had murdered Campbell of Glenure. It was of great moment to the government to get hold of Allan Breo—indeed, in his absence, they found it necessary, as we shall afterwards find, to hang another person, who probably might have been spared had Allan Breo been apprehended. Drummond was employed to kidnap him; but Allan Breo, having heard of the plot, vowed that he would slay Drummond, if the rascal came within his reach; and he was a man likely to be as good as his word. Drummond, who lived afterwards in abject poverty in France, stated that

he was offered by Lord Holderness a lucrative appointment under government, but that he refused it on principle. And there are not wanting Celtic fanatics who, discarding all the rest of his vile history, hold him, upon this little morsel of his own evidence in his own favour, to have been a noble-hearted man of sensitive honour.

It is impossible to pass away from these sad annals of fraud and violence without a brief glance at the political moral taught by more than two hundred years of hereditary war with the law. It may join, with many other dark chapters in British history, in teaching the true functions of a governing people, towards races behind them in enlightenment, and in the hereditary subjugation of the bad passions. Nor are the lessons so taught absolutely useless at this day for practical purposes. If we be now beyond the time when instruction of so tragic a character is necessary to teach statesmen their duty towards any portion of the United Kingdom, yet this empire is daily coming more and more in contact with wild tribes in distant lands, and is daily requiring further instruction in the difficult art of properly ruling them. In the history of the Macgregors we see, on the one hand, a ferocious race, in whom the predatory and sanguinary passions are nourished from generation to generation,

acting after their kind; on the other, a government which uses nothing but the sword, and, unless it can carry *that* to the extent of extermination, ever uses it in vain. The law is the avenger alone; it is never the parent, the instructor, or the protector; and its vengeance ever reprovoked is never satiated.

To judge in any comparative way of the merits of the two parties, is a difficult ethical problem. To maintain that the conduct of the government was just, is out of the question. It is difficult to find out the best means of punishing crime, but it is easy to decide that there cannot be a worse than the handing over of the offender to the irresponsible vengeance of his enemy. On the other hand, it would be somewhat more preposterous to follow some Celtic apologists in the view that the Macgregors were a pure and persecuted race, whose outrages were but the recalcitrations of high-minded men against calculating oppression. They had plundered their neighbours, and defied the government. Governments commonly consist of men with human passions, liable to be directed by the opinions and prejudices of the time. If they are pricked, they will bleed; if they are tickled, they will laugh; and if they are wronged, will they not revenge? But the short, sharp remedy of the sword has ever been too

readily resorted to to cut the knot, and sever the entanglements which men find in dealings with tribes less civilised than themselves. Thus the barbarian has seen civilisation only in its terrors, and has recoiled from it instead of courting it. To be superior to angry impulses; and treat with abstract justice, and a view to their enlightenment and improvement, tribes who themselves are full of injustice and cruelty; is one of the latest and most precious acquisitions of a high civilisation.*

* How much of the spirit which animated the proceedings against the Macgregors yet lingers in minds reared under the shelter of British institutions, may be gathered from the following remarks by an Australian author, incorporating a still more expressive quotation from a writer on America. They are made in reference to the indignant feelings expressed by the bushmen on the occasion of some of their number having been hanged for killing natives:

"The gun is the only law the black fears; the only power that deters him from murder and plunder; and the only available administrator of punishment for his offences."

"Those who denounce the squatter as a murderer and land-robber, it has been well said in Kennedy's account of Texas, 'take no thought of the spirit that has impelled him onwards, of the qualities he is constrained to display, and the social ameliorations of which he is the pioneer. He loves the wilderness for the independence it confers—for the sovereignty which it enables him to wield by dint of his personal energies. The forest is subject to his axe—its inhabitants to his gun.' By daily toil, and at the risk of his life, he earns his bread, and leads a life of conscious independence, where the grand old forests have stood for ages, and where the foot of the white man never trod before. His life is one of continued labour, solitude, and, too often, warfare. He has an enemy untiring, and often

While the name of Macgregor remained under legal proscription, those members of the clan who desired to enjoy the privileges of peaceful civilisation adopted the names of their maternal relations, or changed the forbidden shape into Gregorson, Macgregory, or Gregory. This last name recals singular and interesting associations, realised in a well-known anecdote, which represents the unpleasant surprise of the Aberdeen professor on having to receive Rob Roy in his study as a distinguished and influential kinsman. During a great part of the tissue of hereditary crimes which we have just been recording, this sapling of the family produced an hereditary succession of genius, worth, and learn-

waiting long for his time—cunning, wary, and expert—frequently displaying great courage, and, if he has wrongs to avenge, heedless on whom he wreaks his vengeance, so long as a white man is the victim. Surely, then, the man who is the pioneer of civilisation—who, going out into the wilderness, spends his days in toil and danger, and his nights in dreariness and solitude—who must send out his shepherd with a musket on his shoulder, and sling his rifle at his side, when he rides among his herds—who, making a lodgement in the bush, causes 'the desert to rejoice, and blossom as the rose,' and opens the way for the smiling villages, the good old British institutions, and the happy population which follow: surely this man has not laboured in vain, but has deserved, at least, leniency at our hands."—(*Excursions and Adventures in New South Wales, by John Henderson*, i., 145.) The author, in explanation of his plea for leniency, says, that he does not mean to justify "the causeless and indiscriminate slaughter which has often taken place."

ing, such, in the steadiness and continuity of its growth, as the world has not perhaps exemplified in any other family; nor has its lustre yet departed.

It was not until the year 1775 that the opprobrium thrown on the name of Macgregor was removed by an act of the British parliament. Since that day, the once dreaded name has been sounded with respect at drawing-room doors, in levees, in bank parlours, and on the hustings. It has fallen to the lot of many eminent and worthy men. And singularly enough, the only Highland clan which strives to keep its ancient ties, and assemble together in a body, is that same Clan Gregor, to whom it was prohibited to convene in numbers exceeding four at a time.

TRIAL OF JAMES STEWART

FOR

THE MURDER OF CAMPBELL OF GLENURE.

THE solitary crime of which we are now to give a brief account, forms no inapt supplement to the wild history of the Macgregors. It was the expiring flame of that clan animosity which had been fostered by the previous monarchs of Scotland, as the *divide et impera* by which they sought to govern.

After the suppression of the last Jacobite insurrection, Colin Campbell of Glenure had been appointed factor for the government on certain forfeited estates in the West Highlands, one of which had belonged to Stewart of Ardshiel. In the spring of 1751 he had removed Stewart from the farm of Glen-Duror, and he made arrange-

ments for a sweeping clearance of several other tenants from the estate at the ensuing spring term. These proceedings were resisted in the courts of law; and the prisoner, James Stewart, had led the proceedings with great activity and zeal; but the legal resistance was in vain. All who are acquainted with the state of the Highlands at that time will know that these proceedings implied much more than the mere conclusion of the connexion between landlord and tenant. The farmer, or tacksman, stood half way between the chief and the humblest class of retainers. He was a gentleman, holding in the patriarchal and military hierarchy the rank of an officer. His rent did not depend on a question of value, but was a tribute paid to the head of the house. He was considered to have a sort of beneficial property in his holding; and his removal from it, in the old days, before the forfeitures, would have been considered an affair rather for the clan and kindred than the law to undertake.

But the estates were now under the control of the barons of exchequer, as managers for the crown. They had in view two objects—the enlargement of the rents, and the suppression of the Jacobite interest in the district. With both it was considered that the continuance of Stewart and the other tenants on Ardshiel was incompatible. It

appeared that to Stewart personally the political question was the more serious of the two. It is stated in the speeches made by the counsel for the prosecution, that he discovered no resentment at his own ejection; but, procuring another farm in the neighbourhood, continued to exercise his old influence over the tenants of Ardshiel. It was when steps were taken for their removal, too, that his zeal and activity were exhibited. In the words of the accusing counsel, "So soon as the factor, in the further execution of his instructions, began to take the proper measures for removing, at Whit-Sunday, 1752, some of these tenants, he then took the alarm; that was to pluck up his interest by the root, and entirely put an end to his influence. He therefore made the cause of the tenants his own, and every method of opposition was tried to prevent their removal."

Stewart at first coloured his charges so highly, and made out so strong a case of oppression against Campbell, that he prevailed on the court to grant a "sist," as it was termed, for stopping the proceeding until they might be fully considered. Elated by his temporary triumph, Stewart had assembled the tenants, and inspired them with hopes that he would succeed in defeating the ma-

chinations of their enemy. Campbell, the factor, much annoyed by this interruption, went to Edinburgh, that he might personally bring the process of removal or ejectment to the desired conclusion. Stewart, at the same time, went thither to oppose him. A bitter legal contest took place, in which, as already stated, the factor was triumphant.

It is only from the state of our western neighbours, among whom like disputes have produced similar tragic results, that we can understand the mingled elements of hatred—political, pecuniary, and social—connected with such proceedings. That they could not do otherwise than engender thoughts of the darkest malice, was shown to be a common understanding by a little incident in the trial. The prisoner himself objected to the competency of a witness against him, as one who must be imbued with malice, because, in former days, when the management of the estates were in his own hands, he had ejected this witness. To the ordinary tenants, in fact, it was a deprivation of their moderate competency. A few incidents in the evidence show the severity of the change it would create in their position. Some of them were to remain in the farms, under the new tenants, in the capacity of "bowmen," an expression which recals

other elements common to the Highland peasantry of that and the Irish of later days. The bowman, like the holder of a con-acre of land, worked a small holding or croft, and paid his rent to the tenant or middleman in a portion of the produce.*

On the 14th of May, the day before the term of removal, Campbell, with the necessary officers for executing the writs, proceeded by the old road from Fortwilliam towards the too-memorable valley of Glencoe.† They passed the ferry of Ballahulish. Campbell then alighted from his horse, and had a conversation with a neighbouring proprietor whom he met there. While thus privately occupied with his friend, he desired his servant, John Mackenzie, to walk on before along with Mungo Campbell, an Edinburgh writer. At an abrupt and rocky part of the road this Mackenzie dropped a great-

* The name is supposed to be derived from the steelbow with which the produce was weighed.

† The road is one of the wildest and most broken of the ancient northern Highland paths. It rises high through rocky ground, and often subjects the traveller to a severe contest with the Highland storms. A melancholy instance of its dangerous character occurred so lately as 1847. On the last day of August in that year, two English tourists, having undertaken the journey between Glencoe and Fortwilliam on foot, sat down, overcome by fatigue. They were next day found dead where they had taken rest, coldness and exhaustion seducing them into sleep from which they never wakened.

coat belonging to Kennedy, a sheriff's officer, who was following on foot. When Campbell and his friend came to the place where the great-coat lay, a halloo was raised to the others to come back for it. Then Campbell parted with his friend and went on. Kennedy, coming back for the coat, crossed Campbell, who still went on. The Edinburgh writer was a short distance in advance of Campbell, for the road did not admit of two riding abreast. They had to traverse thus a more than usually rough and broken portion of the path, where they required to look to their horses, and where they were overshadowed on either side by a thicket called the Wood of Letter-More. When Campbell reached this spot his companions heard the discharge of a shot. On coming up they found him lying in his blood, breathing, but unable to utter more than a few incoherent words, and close to death. Two bullets had entered, one on either side of the backbone. The spot, it was afterwards noticed, was one from which a person standing on the bank might survey the road and all that took place on it for some distance. Nothing was seen of the person who fired the fatal shot but the distant shadowy outline of a retreating figure, who seemed to be dressed in a dark Highland coat. About the actual perpetrator of the assassina-

tion there could, however, be no doubt. There was a certain Allan Breo Stewart, called in the indictment by the Celtic *alias* of Vic Ian Vic Allister. He had been a soldier in a government regiment of foot; but after the battle of Preston he deserted, served with the insurgents, and, making his escape, entered the French service. He went about openly in the neighbourhood of Ballahulish and Glencoe, and when his friends spoke of his temerity, he said "he had made up his peace with General Churchill, and had got his pass, which he had in his pocket-book;" but he always made some frivolous excuse for declining to let the pass be seen. The most peculiar part of his conduct, considering his dangerous position, was the very noticeable costume in which he swaggered about; it was called his French dress, and was said to consist of a long blue coat, a red waistcoat, and a feathered hat. He had been heard, as he went idly about dissipating in change-houses or small taverns, potent in his abuse of the new factor and the whole race of Campbell, especially after he had been drinking whisky.

His expressions of enmity were all the better noticed, that a change-house which he frequented, probably because it lay nearest to his haunts, was kept by a Campbell. To this man he had bluntly

said one day, in his cups, that he hated all of the name of Campbell. Then going away and drinking elsewhere, he returned and told the publican, that if he "had any respect for his friends, he would tell them, if they offered to turn out the possessors of Ardshiel's estate, he would make black cocks of them before they entered into possession;" an expression the significance of which will be sufficiently apparent to sportsmen. "He said, twenty times over, he would be fit-sides with Glenure wherever he met him, and wanted nothing more than to meet him at a convenient place." In another change-house, where he had been drinking all night, he showed a profusion of tipsy generosity to a poor bowman, and wound up his attentions by saying, "If he would fetch him the red fox's skin, he would give him what was much better; to which the said John Maccoll answered, that he was no sportsman, and that he was much better skilled in ploughing or delving."*

Allan Breo frequented the house of James Stewart. It was shown that, on the night of the murder, he

* Trial of James Stewart, 8vo, Edinburgh, 1753, appendix, p. 25. The references to the trial in the present notice are all taken from the documents and evidence so published. They fill a considerable volume.

had left his French clothes there. He put on a short black Highland coat, as it is described, with metal buttons, belonging to James Stewart, his alleged accomplice: this dress corresponded with the slight view which the Edinburgh writer obtained of the retreating figure in the wood of Letter-More. After the murder, his French clothes, as they were called, were removed by his friends, and concealed in a place where he was instructed how to find them. Allan Breo took to flight. There would have been nothing conclusive in this act taken alone, as he was a deserter and a rebel, whence a criminal investigation in his immediate neighbourhood must have greatly disturbed his nerves.

He made his first appearance after the murder at the house of Macdonald of Glencoe, the very place where a romance writer would, by the force of destiny, send a murderer steeped in recent blood. Nor was the time unsuitable for such a visit—it was between three and four o'clock in the morning. He knocked at the window, but it appears that he could not rouse the slumberers without calling out to them, for the master of the house and his step-mother were awakened by a child exclaiming that he heard Allan Breo's voice without. Both Macdonald and his step-mother held a conference with Allan, with whom

they had a family connexion. Their evidence was of the most brief and, naturally, most unsatisfactory kind. Allan, they both said, gave them the first information of the murder committed the evening before, but he entered into no particulars—merely told the simple fact, and *they* made no kind of remark or inquiry. He declined to enter the house. He told his friends that he made his untimely visit to bid them farewell; that he was to leave the country, and that he was then on his way to Rannoch.

We next find him seeking refuge in a place called Koilasonachan, spoken of by the witnesses accustomed to the neighbouring solitudes of Glencoe and Rannoch as so wild and remote, that to find a man lurking there at once suggested that he must have been after evil deeds. A bowman, John Breo Maccoll, as he was passing through this wilderness, heard a whistle from a height, and, looking up, saw Allan Breo there. After their salutations, the bowman told him (by his own account) that it could be no good action that took him to such a place. He said he had heard the rumour of the murder, and charged Allan with it. Allan asked eagerly what he had learned about the murder. He said: "He had seen no person from the strath of Appin, but that two poor women, who had come up Glencoe,

were telling that Glenure was murdered on Thursday evening in the wood of Letter-More; and that two people were seen going from the place where he was murdered; and that he, Allan Brec, was said to be one of them; that Allan Brec answered he had no concern in it; and that, if his information was right, there was but one person about the murder; and that as he (himself) was idle about the country, he was sure he would be suspected of it, but that that would give him little concern if he had not been a deserter, which would go harder upon him, in case he was apprehended, than anything that could be proved against him about the murder."

Allan, in want of necessary food, besought the bowman to go to Callart or Glencoe to procure some oatmeal for him. He intended immediately to flee to France, but lacked the pecuniary means. To facilitate his object, he desired the bowman to take a letter to Fortwilliam. His method of providing writing materials in the wilderness showed considerable resources of ingenuity. "Allan Brec," said the witness, "looked about among the trees, and finding a wood-pigeon's quill, made a pen of it; and having made ink of some powder he took out of a powder-horn that was in his pocket, he wrote a letter." The messenger was told, that if he

were caught with that letter he must swallow it rather than let it be found. A girl from the nearest cottage, going after stray cattle, had caught a glimpse of Allan, and, returning home in fright, said she had seen the figure of a man in the wilds of Koilasonachan. She was told that there were bogles or ghosts there, and that she had better hold her peace as to what she had seen. Through circuitous messengers, who could not be got to confess the full amount of their charitable exertions, the money he required was conveyed to Allan, along with his French clothes; and the short Highland coat and bonnet were afterwards found left on the heath.

Allan Brec ultimately escaped to the Continent. Great efforts were made by the government to get him apprehended in France, where he sought an asylum; and it is probable that they were the more zealous in the cause, because his apprehension might have rendered unnecessary some proceedings to be afterwards described, which exposed them to unpleasant reflections. An instrument worthy of such an object—James Drummond, the son of Rob Roy—had, as we have already seen, been employed to kidnap him. He was not so successful, however, with the daring mountaineer as he had been with the youthful widow of Edinbellie; and Allan Brec,

discovering his object, threatened to slay him, and made him feel that his life was not very safe in the neighbourhood of his intended victim.*

Allan Brec was thus never brought to trial. The evidence against James Stewart, as his accomplice, imperfect and unsatisfactory as it is, leaves no doubt that it was Allan who drew the trigger. Perhaps a fastidious modern jury might, before convicting, require some things which remain vague to be explained; but for all the purposes of the historical critic, who cannot hang, the evidence is sufficient for finding a verdict. This, however, is by far the least interesting part of the tragedy. The proceedings against James Stewart of Aucharn, Allan's

* Sir Walter Scott has preserved the following notice of Allan Brec:—"About 1789, a friend of mine, who was then residing in Paris, was invited to see some procession which was supposed likely to interest him, from the windows of an apartment occupied by a Scottish Benedictine priest. He found sitting by the fire a tall, thin, raw-boned grim looking old man, with the *petit croix* of St. Louis. His visage was strongly marked by the irregular projections of the cheek-bones and chin. His eyes were grey. His grizzled hair exhibited marks of having been red, and his complexion was weatherbeaten, and remarkably freckled. Some civilities in French passed between the old man and my friend, in the course of which they talked of the streets and squares of Paris, till at length the old soldier, for such he seemed, and such he was, said, with a sigh, in the old Highland accent, 'Deil ane o' them a' is worth the Hie Street of Edinburgh.' On inquiry, this admirer of Auld Reekie, which he was never to see again, proved to be Allan Brec Stewart."—*Introduction to Rob Roy*, p. 31.

kinsman, are far more worthy of notice than the events connected with the murder itself.

The interest which James Stewart took in the protection of the tenants who were to be ejected has been already noticed. He had been heard to say that, if baffled in the court of session, he would bring the injuries inflicted on the tenants under the notice of parliament; and, if beaten there,—he added, after a pause, "that he behoved to take *the only other remedy that remained.*" The conversation one day turning on an officer of the army who had been branded for cowardice, Stewart passionately exclaimed, that Campbell, the new factor, deserved the brand as well, for he had challenged the man, and he would not fight himself. He desired Campbell to be told that he proclaimed his dishonour. Like his kinsman, Allan Brec, he spoke vigorously in his cups; and was, like him, apt to take them in the premises of hostile publicans of the name of Campbell, whose houses nothing but the dire calls of what is in Scotland so expressively called "drouth" would have induced him to enter. To one of the persons who thus had motives for noticing his conduct with uncharitable constructions, he refused, after partaking of his liquor, to offer the customary courtesies of the district, observing that he would rather see all of

his name hanged; and there were *some* Campbells whose feet he would readily draw down while they were suspended—alluding to an old hangman's duty which the patent slip has superseded. In these dissipated fits, he would scatter suspicious hints among the tenantry or commoners. Thus, drawing a picture of the new factor's cunning and rapacity, he continued to observe, that if he "went on in the same way, it was likely he would in five years be Laird of Appin. And upon the witness* and the said John More and John Beg Maccoll saying that that was likely to happen, the said James Stewart answered, that that was the fault of the commoners, or followers; for, however he, or people in circumstances like him, would shift for themselves, they, the commoners, would be very badly off; and added, that he knew commoners once in Appin who would not allow Glenure to go on at such a rate." One is here reminded of "There was a Brutus once, that would have brooked," &c. Of such a kind were the threats and bravadoes of the discarded factor against his successor; and on one occasion he had even said he would waste a shot on him though he went on his knees.

* In this and the subsequent extracts from evidence, the word witness is substituted for the Scottish technical term "deponent."

What was of far more consequence, Allan Breo was James Stewart's kinsman, and lived in his house. It appeared pretty clear that the murderer had his kinsman's clothes on when he committed the deed; but he had worn them on other occasions. Of some guns which Stewart possessed, one was stated to be amissing on the day of the murder, and it was afterwards found discharged. The guns, along with some broadswords, and other weapons, were sedulously concealed by Stewart's family immediately after the murder. This, however, was in itself a natural, and almost necessary arrangement, for the disarming act was in operation; and the inquiry following on a murder would certainly render Stewart liable to the penalties for disobedience of the act. On hearing the first rumour of the death of Campbell, he had exclaimed—"God bless me, is he shot?" as if anticipating the method of the death; and he refused to join those who were assembling round the body.

Stewart was found making desperate efforts to obtain some ready money. He sent a pressing message to a person in Fortwilliam with whom he had made a bargain about cows, to send him the money, in anticipation of his own fulfilment of the bargain. The man was at first angry and impatient, as at an unreasonable request; but he

afterwards complied, probably on receiving a hint of the purpose for which the money was to be used. This money was conveyed to Allan Brec, to enable him to leave the country. There could be no doubt that Stewart, with all his family and partisans, assisted Allan Brec in making his escape; and did what in them lay, by concealing his clothes and otherwise, to shield him from justice. The only other incident of any importance bearing against Stewart was, that the bowman who talked with Allan Brec in Koilasonachan, reported him to have remarked that probably Stewart's family would be suspected of the murder; that probably both father and son might be apprehended for it; and the son's tongue was not so good as the father's.

No law, like that which in England affected accessories after the fact, had taken root in Scotland, and Stewart was brought to trial as a planner and adviser of the murder. There is no use, at the present day, of denying that the proceedings against him were unjust, according to modern notions of the administration of the law; and that the evidence was insufficient to justify a verdict of wilful murder against him. We know, however, and it was well known by the government in that day, that Stewart, along with many others, had tacitly adopted a position which baffled the laws in

their fair administration. Granting that he had deliberately concocted the murder, the arrangement never could have been proved by the evidence of his own kinsmen and supporters; and, of course, a secret compact could not be easily proved by members of the hostile clans.

But it is unnecessary to suppose that such a compact had been made. It was sufficient to paralyse the government, that, when a man like Allan Brec committed a deed in accordance with the feelings and devout wishes, though not the instigations of his kindred and supporters, they should all remain dumb and motionless, or should bestir themselves only to hide him, and help him to escape. The government was resolved, without any scruple, to break through such a system, by making an example; and we shall now see how it set about this business.

The lord justice-general is the head or president of the high court of justiciary, or supreme criminal tribunal, of Scotland. Down to so late a time as the reign of William IV., it was an office merely honorary conferred on some influential peer. During the irregularities immediately preceding the revolution, the justice-general of course employed his office for every purpose of oppression and rapacity; but it had subsequently settled

down into practice that the criminal justice of the country was to be administered by professional and responsible judges trained in the practice of the law. Thus the lord justice-general no more thought of acting in the justiciary than the lord mayor in the recorder's court. But the Duke of Argyle, the head of the house of Campbell and of the Hanover interest, was resolved to preside at the trial of a Stewart and a Jacobite for the murder of a Campbell and a Hanoverian.

It was considered that even if the nominal head of the justiciary court should sit in judgment, he ought to do so only in the high court, as it was termed, in Edinburgh, and that it was not consistent with his office of president of the chief tribunal to act as a judge on circuit. But there were irresistible temptations for his breaking on this occasion through every established custom. If the proceedings were referred to the circuit court, Stewart would be tried at Inverary, among the Campbells, who hated him, and in Argyle's own capital, where he was as absolute as it was possible for a subject to be. Further still,—it had not been customary for the lord advocate in person to conduct prosecutions on circuit; but on the present occasion that high officer — whether in deference to the rank of the presiding judge, or on account of the urgent importance of the occasion—

repaired to Inverary to conduct the prosecution. Of the fifteen jurymen empannelled to give a true and impartial verdict, eleven bore the name of Campbell. Many of the witnesses could not speak English, and a Campbell acted as interpreter. The transmission of the evidence through such a medium gives it a stiff, inanimate character, and there is little doubt that it bore a Campbell tinge. And yet, what was to be expected? The prosecutors would scarcely choose a hostile witness; and were they to find an impartial man who knew Gaelic! The witnesses would do their best on the one hand to baffle and conceal. Evidently they knew much which they did not tell; and, on the other hand, there is little doubt that the interpreter would give a strong tinge to what they did tell. This little portion in itself is only too characteristic a type of the whole history.

After such powerful preparations for extracting a verdict of guilty, it would be superfluous to inquire into the truth of all that was charged against the government by the exasperated friends of Stewart. They complained that the bar had been intimidated. It was not to be much wondered at, that some learned counsel found it at that time inconvenient to go to Inverary. Yet Stewart was ably and gallantly defended; and, indeed, one of his advocates, Walter Stewart, made an allusion to the peculiari-

ties of the occasion, which was somewhat of a home-thrust. "The time was," he said, "indeed, when the feeble law was unable to protect the innocent—when the rules of justice were broke to pieces by the ruffian hands of power; then our unhappy country groaned under the yoke of arbitrary power—then was scarce the form of a trial; the best, the greatest of our country—*even an Argyle*—fell a sacrifice to the call of tyranny. But now, my lords, the days which our fathers wished to see, and did not see, we have the happiness to enjoy. A fair trial, which the noblest could not obtain, the meanest are now entitled to, under the protection of laws guarded by a government ever watchful for the good of its subjects, under which the keenness of private prosecutors will meet with no countenance or encouragement."

It was admitted that both Stewart and his family had been subject to hardships unusual and unconstitutional, in being separately confined in dungeons, without receiving access to their friends or professional advisers. But this was remedied ere it became too late, and a natural enough cause was assigned for it. They had been placed under military guard in the prison of Fortwilliam, and the commanding-officer knowing nothing of legal rights, or the privileges of the untried, acted on

professional notions of duty, and excluded all access to his captives.

Many occurrences took place which would now be counted indecencies;—but it must be remembered that the juncture was not half way from the days of Jeffries to our own. One of the counsel for the prosecution, whose words must be taken in connexion with the avowed Jacobitism of the accused, said: "I must say that his family and connexions—his character and conduct in public life, are so many circumstances forming a presumption almost equal to a proof in support of the charge brought against him." In the face of such declarations, the prisoner's counsel was well justified in complaining of "an impression which has been industriously raised and artfully propagated, as if it were somehow necessary that the pannel should be found guilty, and as if his being acquitted would bring a reflection on this part of the kingdom."

The jury found the accused guilty. It is in the final admonition given by the presiding judge, on sentencing the unfortunate man to death, that we now, with astonishment, find the hereditary enmity of race and party bursting forth through all control of judicial decorum. One would have expected the statesman of Walpole's day, and the polished courtier of the age of Chesterfield, incapable, even were

the occasion a far less solemn one, of saying what follows. And so at St. Stephen's or St. James's he doubtless would have been; but in his own capital, with his retainers around him, looking his enemy in the face, the old blood of MacCallum More was up. In his charge to the jury, he said:

"In the year 1715 there broke out a most unnatural and unprovoked rebellion, soon after the accession of his late majesty to the throne; in which the part your clan acted is well known, so many being here present that were witnesses of their composing part of the rebel army which besieged this town. This I myself have reason to know. A royal indemnity soon followed after those treasons then committed. But, in the year 1719, your clan, unmindful of their lives and fortunes having been granted them only two years before, did again rise in rebellion, and assisted a foreign enemy in an invasion; in this you are said to have acted a part, though at that time very young.

"In the year 1745 the restless spirits of the disaffected Highlanders again prompted them to raise a third rebellion, in which you and your clan formed a regiment in that impious service, and in which you persevered to the last. The Divine Providence at first permitted you to obtain some advantages, which has possibly been to give you time to repent

of your crimes. But who can dive into the secrets of the Almighty! At last Heaven raised up a great prince, the son of our gracious king, who, with courage equal to that of his ancestors, and with conduct superior to his years, did, at one blow, put an end to all your wicked attempts.

"If you had been successful in that rebellion, you had been now triumphant with your confederates, trampling upon the laws of your country, the liberties of your fellow-subjects, and on the Protestant religion. You might have been giving the law where you now have received the judgment of it; and we who are this day your judges might have been tried before one of your mock courts of judicature, and then you might have been satiated with the blood of any name or clan to which you have an aversion."

It must have seemed a solemn mockery to say to the prisoner in this denunciatory speech, "James Stewart, you have had a very long and most impartial trial. You have been prosecuted with all the moderation consistent with the crime you stood accused of, and your counsel have defended you with great ability and with decency."

Immediately on the sentence of death being passed, the prisoner said:

"My lords, I tamely submit to my hard sen-

tence. I forgive the jury, and the witnesses, who have sworn several things falsely against me; and I declare, before the great God and this auditory, that I had no previous knowledge of the murder of Colin Campell of Glenure, and am as innocent of it as a child unborn. I am not afraid to die; but what grieves me is my character—that after ages should think me capable of such a horrid and barbarous murder."

He died with dignity. To the end he maintained his innocence, not like one who hoped by reiterations or prayers to stay his doom, but calmly and temperately, like one fulfilling a duty to his name and cause, and seeking only to secure the good opinion of the candid. He doubtless felt the importance of his position. It was that of no common criminal, but of a political martyr to the expiring cause of the exiled house. To gratify the sad pride of his kinsmen, it was essential that he should act the hero, and he was not wanting to the occasion. He was enrolled in the catalogue of Jacobite martyrs.

This judicial tragedy, of which an attempt has been made to afford an impartial account, may seem to throw a weighty scandal on the institutions of the country where it occurred, and on the conduct of the party who bent them to such a

purpose. But if the scandal be admitted, we may pause a moment before holding that it either shows the falsity and emptiness of the institutions or the depravity of the party. It is of some consequence to look to this at a time when in another part of the empire we have but just escaped a tampering with our popular forensic institutions, which circumstances of emergency appeared to justify. If such institutions may be outraged and scandalised, the very shape and consequences of such outrage and scandal only show the value of preserving the institution untouched, that it may be more purely administered; and if we compare the trial of James Stewart with other events both in our own and foreign histories, we may find that it is *because* jury trial was the instrument, and *because* the Hanoverian government were the perpetrators, that the case ever became remarkable. Under secret judicial procedure, and an irresponsible government, it would have scarcely been known or noticed beyond the province and the generation in which it occurred.

An unconstitutional government powerful as the representative government which ruled Britain after the last Jacobite insurrection, would have certainly found means of punishing an enemy like James Stewart. If such a government found its agents

shot in the execution of their duty—saw clearly that the perpetrators were shielded from justice, and helped out of the country, by a numerous band of abettors and partisans—and were able to lay hands on one man whom they had every reason to believe a supporter and shielder of such a murderer, if not his employer and instigator,—would they not have found means of striking a blow at the system, though it were through his life? The only difference in the case, had it occurred under an irresponsible government—such a government as the Stewarts tried to establish—would have been that the proceedings would have been secret. Their exact nature, and the precise violations of justice committed in them, would have been unknown; the *scandal* would have been avoided.

But here everything was open as day. The arraignment in the midst of enemies—the chief enemy of all on the bench; the angry denunciations of the law-officers and the judge; the jury of Campbells; all these things were published to the world, and were eagerly and fiercely commented on. The institutions were scandalised, but not undermined. True, the party accomplished their object—the man was hanged. But many a warm friend of the government looked with regret on that conspicuous scene of unbridled animosity. The proceedings were

energetically censured, not only by the Jacobites, but by their antipodes, the friends of freedom and onward progress. No one dared to defend them. In legal commentaries, the trial is always referred to as a perversion of justice. For a century it has stood forth as a beacon of warning to all who shall pervert the great free institutions of the country to party purposes. It shows emphatically how these institutions have in their publicity an alarm bell, that rings loudly, and tells all the world when they are bent to unworthy purposes.

THE DARIEN EXPEDITION,

AND

THE TRIAL OF CAPTAIN GREEN

FOR PIRACY AND MURDER.

On the 11th of April, 1705, the commander of the English trading ship, the *Worcester*, with two of his crew, were hanged in chains on the sands of Leith, having been convicted by the Scottish Court of Admiralty of piracy and murder. It was a general impression at the time, that their lives were not forfeited to the due administration of justice and the punishment of crime, but that their trial and execution were virtually a retaliation for national injuries, and a flinging of defiance in the face of England. The event thus opened to view so dismal a gulf of national animosity and unscrupulous hatred, that it thoroughly alarmed the friends of peace and progress, and urged them to hurry on and complete

with all practical rapidity that legislative union of the two nations which seemed to be the only protection from a deadly war, wherein wealth power and pride on the one side, would be met by courage endurance and unquenchable hatred on the other. It may seem strange that occurrences, in themselves full of incident, and immediately productive of an event, so important in European history as that which, by mutual consent and equal distribution of privileges, made two powerful nations become one, and extinguished the divisions and jealousies incompatible with the existence of a great British empire, should be hitherto so partially and inaccurately known, and should remain to be fully explained in the middle of the nineteenth century. It is not difficult, however, to find the reason of this. After the tragedy was accomplished, no party felt an interest in too minutely examining the affair of Captain Green. Those who were successful in pursuing him to the scaffold could not very decently exult in their triumph, and were not anxious to proclaim, if they could even comfortably pass under self-examination, the motives on which they had acted. The friends of peace and the promoters of the union at the same time desired to bury the past in oblivion. Thus there was a general disposition to "hush up," as it is termed, this untoward affair;

and for long years afterwards it would have been difficult to say what prejudices and animosities a recurrence to it might have aroused. The time has now, however, long arrived when its details may be laid bare without much danger that the inquirer will be misled by national or party prejudices, and with still less danger that he can arouse any latent antipathies in the reader.

Although the fate of Green and his fellow-victims was produced by a national movement—one of those movements in which mercy and justice to individuals are too often trodden under the footsteps of an excited multitude—the event was immediately connected, as its operative cause, with the ruin of that celebrated Darien project, from which Scotland expected so much success, and reaped so much calamity. As the same resources which enable the present writer to let out long buried light on the immediate affair of Captain Green also bear on the events that led to it, there would be much temptation on this occasion to offer an elucidation of them, even if they had less connexion than they have with the trial and execution, which join into the history of the Darien scheme like the last act of a tragedy.*

* It occurred to the present writer a few years ago, when collecting materials for a projected history of Scotland beginning after the revolution, to examine the contents of an old oak chest which had stood in a cellar of the Advocates' Library;—he could

Soon after the establishment of the revolution settlement, the ardent feelings of the Scottish people were turned out of their old channels of religious controversy and war in the direction of commercial enterprise. When the crimes and conflicts of Queen Mary's day—the plots that made her son's reign precarious—the great conflicts of the Commonwealth, the persecutions of the Restoration, and the reaction of the revolution were all over—the vessel of the state, after having been so long tossed and strained, felt itself suddenly in the calm waters of tranquillity and security. Now, if ever, was the time to turn the national energies to those arts of peace, on which the impoverished Scots could not help seeing that the wealth and power of England were based. Nothing but a guiding mind was necessary to concentrate the national ardour, and bear it on upon

find no means of knowing how long—probably from the period of the union. He was surprised, as well as gratified, by the richness of this store, consisting of the books and documents of the Darien Company and its officers,—many of the most curious of them tied up in dusty bundles, which appeared to have remained untouched since the dissolution of the company. Some of the documents—chiefly bearing on the commercial affairs of the company—were lately printed under the superintendence of the present writer, for the use of the members of the Bannatyne Club. The others, including those relating to the affair of Green, remain still in manuscript. Whenever in the following pages no other authority is indicated, this collection of documents will be understood to supply the material.

one great object, and such a mind appeared at the time in that of William Paterson.

A singular mystery hangs over the early history of this man. In the old statistical account of Scotland he is claimed as a native of the parish of Tinwald, in Dumfriesshire; but there is no visible authority for the statement, and no means of knowing that he was a native of Scotland, but the ardent patriotism sometimes apparent in his writings. His conduct in after life showed that he was familiar with distant countries inhabited by savages, and had sailed in unknown seas: but on the capacity in which he had adventured himself among them the assertions of his contemporaries were so conflicting, that some said he was a zealous Christian missionary; others, that he was a daring pirate, who had returned with the earnings of many frightful iniquities. We find one of the many phamphleteers of the period speaking of him thus:

"William Paterson came from Scotland in his younger years, with a pack on his back, whereof the print may be seen if he be alive. Having travelled this country some years, he seated himself under the wing of a warm widow near Oxford, where, finding that preaching was an easier trade than his own, soon found himself gifted with an Anadabe spirit. Prophets being generally despised

at home, he went on the propaganda side account to the West Indies, and was one of those who settled the island of Providence a second time. But meeting some hardships and ill-luck there—to wit, a governor being imposed on them by the King of England, which his conscience could not admit of—the property of their constitutions was altered, and they could no longer be a free port or sanctuary for buccaneers, pirates, and such vermin who had most need to be reclaimed unto the Church. This disappointment obliged Praedicant Paterson to shake the dust from off his shoes, and leave that island under his anathema. He returned to Europe some twelve years ago with his head full of projects, having all the achievements of Sir Henry Morgan, Batt, Sharp, and the buccaneers in his budget. He endeavoured to make a market of his ware in Holland and Hamburg, but without any success. He went afterwards to Berlin, opened his pack there, and had almost caught the Elector of Brandenburg in the noose, but that miscarried too. He likewise imparted the same project to Mr. Secretary Blathwait, but still with the same success.

"Meeting thus with so many discouragements in these several countries, he let his project sleep for some years, and pitched his tent at London, where matter is never wanting to exercise plodding

heads. His former wife being at rest, as well as his project, he wanted a help that was meet for him, and not being very nice, went no further than the red-faced coffee woman—a widow in Birchin-lane —whom he afterwards carried to the Isthmus of Darien; and at her first landing thrust her about seven foot under ground, to make the possession *de facto* of New Caledonia more authentic."*

Whatever his early life may have been, it was, at all events, apparent that he was a man of correct walk and conversation in his mature years. He gave expression to many noble sentiments, and appeared to be ever under the influence of serious, religious convictions. "Above all things," he says in one of his letters of private counsel, "endeavour to cultivate the reverence and respect for God and his religion; for in this there is great gain, not only in eternity, but in time." And his correspondence is full of similar allusions. He had an intellect singularly fertile in projects. He usually is called the founder of the Bank of England. It would be more correct to call him the projector. That he first laid out the design of that great corporation is admitted by all who have written on its history; but his name was not practically associated with it as a director. It has been usual to say that Paterson

* A Defence of the Scots abdicating Darien (1700), pp. 2-4.

was heartlessly and ungratefully superseded by the plodding capitalists, for whose slower wits he had designed a fabric of solid fortune; but his connexion with the Darien scheme showed that his capacity lay far more in projecting than in executing, and it is quite possible that his name was unknown in the history of the direction of the bank, simply because his colleagues found it necessary to prevent him from practically obstructing the project he had so ingeniously designed.

In carrying out a new project with which his fertile brain was teeming, Paterson expected, not without reason, to find warmer friends and coadjutors in his own countrymen, and he succeeded at once in securing the resolute championship of Lord Belhaven and Fletcher of Saltoun—two impetuous patriots, who signalised themselves by the tenacious jealousy with which they strove to keep their country free from the influence of England. Their first step was to obtain an act of the parliament of Scotland, incorporating the subscribers as "The Company of Scotland trading to Africa and the Indies." It was passed in 1695. The act appointed half the shares to be held in Scotland, and by Scotsmen; the other half were open to investment by foreigners, including Englishmen. It was evidently the object of the projectors thus to feed their

patriotic project with English capital,—an attempt which led the way to all their subsequent calamities. They immediately opened subscription-books in London, where they held their meetings, and conducted all their central operations. Those who were jealous of the great English trading monopolists—the East India, the Turkey, and the African companies—seized on the opportunity with avidity, and rapidly subscribed the 300,000*l.* of stock, being the half in which foreigners were allowed to invest. But the great companies became in their turn alarmed and angry. In those days trade jealousies were carried out to an exterminating extent, and there was no cruelty or hardship, slavery included, which men did not consider themselves justified in perpetrating "for the promotion of national trade." Parliament readily entered on the matter, and the House of Commons appointed a committee "to examine what methods were taken for obtaining the act of parliament passed in Scotland for the company of Scotland trading to Africa and the Indies; and who were the subscribers thereunto; and who were the advisers thereof." Many of the English shareholders were examined and thoroughly frightened; for to displease the House of Commons, then fresh in its revolutionary triumph, was to incur a serious calamity. Many excuses were sought for what it

was in vain to justify; and one citizen, named Glover, "confessed that he had subscribed to the Scotch East India Company upon this reason, that he thought it better that an Englishman should have the benefit of it than a foreigner." The committee seized on the minutes and account-books of the company. They brought up their report on the 21st January, 1696, and the house, in great excitement, proceeded to pass angry resolutions. Among these, it was "resolved that the directors of the Company of Scotland trading to Africa and the Indies under colour of a Scotch act of parliament, styling themselves a company, and acting as such, raising monies in this kingdom for carrying on the said company, are guilty of a high crime and misdemeanour." They voted the like resolution as to the taking the oath of office, and then followed a string of resolutions to this effect:

"Resolved—That the Lord Belhaven be impeached of the said high crimes and misdemeanours," and so as to the other directors successively, including Paterson.*

They evaded any subsequent proceedings by retiring to Scotland, where, smarting with the bitterest sense of injury, they proclaimed to their susceptible countrymen the insult offered in their

* Commons' Journals.

persons to the proceedings of the independent parliament of Scotland, whose solemn statute had been judged and condemned by the commons of England. The English subscribers, with one exception, withdrew, by declining to pay up their first instalments. The directors in Scotland treated this as a mere matter of form, and made an entry on their minutes, "finding that (excepting William Paterson, James Smyth, James Campbell, Daniel Lodge, and Joseph Cohen d'Azevedo, for the sum of 15,000*l.* sterling, being 3000*l.* sterling to each) the several persons, subscribers of the sum of 300,000*l.* sterling to the joint stock of this company at London, have not paid in the first fourth part of their respective subscriptions. Therefore the said court of directors have accordingly vested in themselves, for the use of the said company, the remaining sum of 285,000*l.* sterling of the subscriptions aforesaid."

Now had come the time for the directors to rouse the national feeling of Scotland—and they did it with effect. The 21st of January was the date of the proceedings of the English parliament. The subscription-books were opened at Edinburgh on the 26th of February. The chief old nobility of the north, as was beseeming in that age, took the lead. The first entry stands:

"We, Anne Dutches of Hamilton and Chastle-

rault, do subscribe for three thousand pounds stirling." And then follow the Countess of Rothes, the Earl of Hadington, the Earl of Hopeton, &c.

On the first day the amount subscribed was 50,400*l.* The capital of the company was limited to 400,000*l.*, and before the end of March the half of it was subscribed. The books were announced to be closed on the 3rd of August, and on the 1st the whole capital was subscribed. Though the railway bills in Scotland for one year—1846—authorised the raising of upwards of sixteen millions, yet, so extreme was the poverty of the country before the union, that the engaging for a fortieth part of the amount was considered a greater marvel. Many were the devices adopted and the sacrifices made by those who were most resolute to partake in the scheme. Old family estates were sold or mortgaged, unwilling debtors were pushed for payment, and small driblets of money were collected into one focus. An examination of the books shows that, with every effort that could be made, the amount had slightly exceeded the capacity of the country. Two of the heaviest adventurers appear in the subscription-book to have come forward for second subscriptions of 1000*l.* each, which they held for the company "to complete the quota of 400,000*l.* stock."

While the Scots were urged on by a mixed feeling of enthusiastic patriotism and speculative ambition, they encountered the wrath and ridicule of their haughty neighbours of England. Abundant were the pasquinades heaped on the beggarly rivals of English enterprise. An extract from one effusion, called "Caledonia, or the Pedlar turned Merchant—a Tragi-Comedy," may suffice as an indication of their spirit:

"Her neighbours she saw, and cursed them and their gains,
Had gold as they ventured in search on't;
And why should not she, who had guts in her brains,
From a pedlar turn likewise a merchant?

"Such a number of scrawls, and poot-hooks, and marks,
No parish beside this could boast;
As the knights of the thistle, fine blew-ribband sparks,
Set their hands with the knights of the post.

"The nobles, for want of the ready, made o'er
Their estates to promote the design,
And in quality capitals owned they were poor,
And perfectly strangers to coin.

"The clergy (mistake me not), those who could read,
Sold their Calvin, and Baxter, and Knox;
And turning the whites of their eyes to succeed,
Blessed the pieces, and paid for large stocks."

To the question, what was to be done with the money thus collected? the answer might be given in the brief expression—Everything. The company were to trade in all kinds of commodities to all parts of the world. They were to be ship-

owners, agriculturists, and manufacturers. The minute-books show, in rich confusion, engagements for the purchase or making of serges, swords, pistols, stockings, shoes, nails, combs, buttons, knives, barrels of ale, hides, horn-spoons, and hunting-knives. They begun to build warerooms beyond the city wall of Edinburgh, and close by the Bristo Port. Conducting all their operations on a grand and liberal scale, their edifices were erected in the style of the French palaces. A fragment of one of them, noticeable for its commanding and symmetrical design, still exists, and, alas! too characteristically serves the purpose of a pauper lunatic asylum for the city of Edinburgh. The company were to be the general underwriters and bankers for Scotland. While the present writer was examining their books, a hard, metallic substance dropped out of one of them, and rung upon the floor; it was the copper plate on which the blank for their bank-notes was engraved. A check-book showed that they had issued them to the extent of several thousands of pounds.

But the grand project of the company, and that in which it suffered so disastrous a shipwreck, was announced in these terms:

"Resolved, that a settlement or settlements be made with all convenient speed upon some island,

river, or place in Africa or the Indies, or both, for establishing and promoting the trade and navigation of this company."

Here we find abundant traces of the restless organising spirit of Paterson. The committee of foreign trade have repeated entries in their minutes about "several manuscript books, journals, reckonings, exact eliminated maps, and other papers of discovery in Africa and the East and West Indies, produced by Mr. Paterson," and "upon hearing and examining several designs and schemes of trade and discovery by him proposed," it was resolved, "that some particular discoveries of the greatest moment to the designs of this company ought to be committed to writing and sealed by Mr. Paterson, and not opened but by special order of the court of directors, and that only when the affairs of the company shall of necessity require the same."

It was not wonderful that a mysterious grandeur surrounded the secret suggestions of the schemer, and that a whisper went abroad that Scotland was about with ease to achieve one of the greatest commercial triumphs since the discovery of the New World. The project still charms us by its greatness, and notwithstanding its failure at that time, its practical wisdom is attested by the fact that Britain and the United States are now occupied in carrying it out.

The plan was to take possession of the Isthmus of Darien or Panama, establish free ports on either coast, and be the channel of all the commerce between the east and the west of the Old World, and the two seaboards of the New. Two paragraphs selected from the many documents written by Paterson, will serve to show the vastness of his views, and the persuasive power with which he expressed them:

"The time and expense of navigation to China, Japan, the Spice Islands, and the far greatest part of the East Indies, will be lessened more than half, and the consumption of European commodities and manufactures will soon be more than doubled. Trade will increase trade, and money will beget money, and the trading world shall need no more to want work for their hands, but will rather want hands for their work. Thus this door of the seas and key of the universe, with anything of a reasonable management, will of course enable its proprietors to give laws to both oceans, and to become arbitrators of the commercial world, without being liable to the fatigues, expenses, and dangers, in contracting the guilt and blood of Alexander and Cæsar. In all our empires that have been anything like universal, the conquerors have been obliged to seek out and court their conquests from afar; but

the universal force and influence of this attractive magnet is such as can much more effectually bring empire home to the proprietor's door.

"But from what hath been said, you may easily perceive that the nature of these discoveries are such as not to be engrossed by any one nation or people with exclusion to others; nor can it be thus attempted without evident hazard and ruin, as we see in the case of Spain and Portugal, who by their prohibiting any other people to trade, or so much as to go to or dwell in the Indies, have not only lost that trade they were not able to maintain, but have depopulated and ruined their countries therewith; so that the Indies have rather conquered Spain and Portugal than they have conquered the Indies. For by their permitting all to go out and none to come in, they have not only lost the people which are gone to these remote and luxuriant regions, but such as remain are become wholly unprofitable and good for nothing. Thus, not unlike the case of the dog in the fable, they have lost their own country, and yet not gotten the Indies. People and their industry are the true riches of a prince or nation; and in respect to them all other things are but imaginary. This was well understood by the people of Rome, who, contrary to the maxims of Sparta and Spain, by general naturalisation, liberty of

conscience, and immunity of government, far more effectually and advantageously conquered and kept the world, than ever they did or possibly could have done by the sword."*

Such were the preliminaries on which a small fleet sailed from Leith Roads on the 26th of July, 1698, under propitious sunshine, and amidst the plaudits of an excited multitude, congregated from all the southern districts of Scotland.

On the 30th of October, a passenger who kept a diary records that they "anchored in a fine bay, about six leagues to the west of the Gulf of Darien. There came two canoes, with several Indians on board. They were very free, and not at all shy. They spoke some few words of English and indifferent Spanish. We gave them victuals and drink, which they used very freely, especially the last. In their cups we endeavoured to pump them, who told us they had expected us these two years; that we were very welcome; and that all the country was at war with the Spaniard. They got drunk and lay on board all night. In the morning, when they went away, they got each an old hat, a few twopenny glasses and knives, with which they seemed extremely pleased."

In a short time, the most brilliant hopes of the

* Dalrymple's Memoirs, ii., 118.

adventurers appeared to be more than realised. The settlers wrote home about the gold dust found on the shore, deposited from the sand taken up in wooden ladles. They mentioned the excellent game and the pleasant hunting parties. One writer not unpoetically described a pleasure party resting at night in hammocks of silk grass: "The night was pleasant and refreshing, and everybody slept as well as if he had been in the best furnished chamber; there was all round a mighty silence, and the pleasant murmuring of the wind in the tops of the trees gently moved us to sleep."* He spoke of "that delicious fruit called the pine-apple, shaped something like an artichoke, as big as a man's head," which grows wild and ripens abundantly at all times of the year, "and seems to taste of all the delicious fruits together;" and the vegetable marrow, which "has a thousand delights in its taste, and may supply the defects of all sorts of fruits."† With such luxurious commodities were mingled many of a more vulgar but not unimportant order — sugar-canes, spices, and dye-woods.

On the 28th of December, 1698, a despatch from the council of the colony stated that its "health,

* The History of Caledonia, &c., by a Gentleman lately arrived. 1699. P. 42.

† P. 47.

fruitfulness, and good situation," exceeded their expectations.

"In fruitfulness this country seems not to give place to any in the world; for we have seen several of the fruits, as cocoa-nuts, whereof chocolate is made, bonellos, sugar-canes, maize, oranges, plantains, mango, yams, and several others, all of them of the best of their kind anywhere found.

"Nay, there is hardly a spot of ground here but what may be cultivated; for even upon the very tops and sides of the hills and mountains there is commonly three or four feet deep of rich earth, without so much as a stone to be found therein. Here is good hunting and fowling, and excellent fishing in the bays and creeks of the coast."*

Paterson gave assurance of that most tempting of all glittering bates—gold—being abundant in the colony. "Besides the mines," he said, "already discovered and wrought, the gold found in the sands of almost every river near your settlement, and other things observable, do sufficiently demonstrate that there still remain other great and valuable discoveries to be made." We now, at all events, know that the precious metal is found at no great distance from Darien; and as a colony of the Scottish or any other persevering people settled there must have in

* Quoted, Inquiry into the Causes, &c., p. 104.

time discovered the neighbouring mines of metallic riches, one cannot help feeling that the untimely fate of this enterprise may be said to have changed the history of Europe, by delaying for upwards of a century and a half the development of a source of enterprise, which, if possessed by Britain in William III.'s reign, might have materially affected the character and progress of British colonisation and commerce. The deposits of gold dust in the sand taken up in wooden ladles are entirely in accordance with Californian experience, and one would readily and naturally believe in such a feature, if told of Darien and its neighbourhood, at the present day. Yet so had fate determined to blast all the brilliant visions of these adventurers, like the fiends who turn ill-gotten wealth to heaps of rubbish, that what had been mistaken for gold dust was found—at least so the colonists in their disappointment said—to be nothing more valuable than a glittering micacious schist.

The first calamities suffered by the colonists were from the enmity of the Spaniards. Treaties were made with the neighbouring chiefs—willing, like all savage leaders, to make with any one any kind of agreement that promised immediate profit. But the Spaniards professed to have an indefinite empire in Central America, and it was clear that if they

could they would drive out any other nation endeavouring to settle there. They maintained that the settlement was an infringement of the treaty of Ryswick, and it was natural that they should be unable to comprehend that Scotland was a free country with an independent legislation, not bound to fulfil the conditions undertaken for England. The Spanish ambassador presented a formal memorial against the colony at the court of St. James's; and it is said that he was induced to do so, not by the instructions of his own court, but through English and Dutch trade influence. At the commencement of the year 1699 an engagement, or rather a skirmish, took place between the colonists and a party of Spaniards, in which, according to the Scottish accounts, the enemy were signally beaten. Still a return of two killed and twelve wounded was made, which stung the national feeling with a sense of outrage unavenged. A vessel belonging to the company, having stuck on a rock near Carthagena, was seized by the governor, and the crew were imprisoned. The company sent a messenger with credentials to complain of this outrage; but as the council reported to their constituents at home, "the governor having called a council, and broke open our letters, threw them away, with the act of parliament and letters patent, in a most disdainful

manner, calling us rogues and pirates." In the mean time the crew of the vessel were sent to Spain, where they were formally tried and condemned to death as pirates. They were not executed, the affair of the trial evidently being intended more for diplomatic than judicial purposes, but they were subjected to all the hardships and ignominies of criminals, and the exasperation of their countrymen was fed by the intentional publicity given to proceedings which it was known that the king would not resent. Copies and translations of the judicial documents are among the business papers of the company, and some of them seem to be odd enough. Thus a document professing to be a judgment of a Spanish court, after a preamble, proceeds thus:

"The declaration being perused, we find that we ought to condemn, and do condemn, Captain Robert Paton, B. Spence, John Malach, and James Graham to die: the form how, is reserved to us; and that David Wilson be set at liberty for being under age; and we do confiscate all the goods of the said four persons, and all the merchandise of the ship *Dolphin:* and to the intent it may be executed so, 'tis ordered that a copy of this sentence, authenticated, be sent to Carthagena, and that the goods being sold to be at the king's disposal, &c., and

finding by said declaration, &c., to be guilty the Duke of Hamilton, my Lord Pemur [Panmure], the Marquis of Tevathall [Marquis of Tweeddale], and the rest of the persons in Scotland who formed this company without the king's leave to invade and settle, 'tis just they should be punished for the preservation and good peace of the two crowns Spain and England; all which ought to be made known to the King of England by the ambassador there, and the ill consequences that may follow to all Europe by such proceedings."

But the poor colonists had to encounter enemies worse even than the Spaniards. While their fellow-countrymen of Scotland, on hearing of their safe and triumphant arrival, were holding illuminations, ringing bells, and returning thanks in the churches, disease was breaking the spirits and thinning the numbers of the adventurers. The hardy Scots were prepared for danger and conflict—for all that the courage of man could accomplish, and all that a frame braced by the north wind and the storm could meet and resist. But they were not prepared for the insidious miasmas of the tropics—the deep masses of rotting vegetable matter which steam forth poison under the burning sun—for the jungles where

> "The deadly vines do weep
> Their venemous tears, and nightly steep
> The flesh with blistering dew."

For such an evil they seemed to have been totally and recklessly unprepared. In the depression produced by sickness and misfortune, the colonists now began to ask each other for what they had emigrated? They were, it is true, to be the great channel of the world's trade, but somehow or other it was not coming their way. In fact, they were isolated from all the world; for not only the Spanish, but even the French, who were contemplating settlement in Central America, counted them interlopers, while their English fellow-subjects, as we shall see, were their worst enemies. No arrangement had been made rapidly to supply them with necessaries from home. The intervening season was one of scarcity and hardship in Scotland, and in the earliest despatches which the settlers received, they were told that they could get nothing from the scanty stores of their own country, but were furnished with letters of credit on the English colonies—letters which were not honoured, for the reasons presently to be mentioned.

The policy and schemes of King William were greatly disturbed by this project. He could not afford to quarrel with the great mercantile interests of England, which, as we have seen, declared deadly hostility to the new adventure, and, indeed, to any attempts on the part of Scotland to compete with

them in trade and colonisation. To the address of the House of Commons against the company already mentioned, he made answer, "That he had been ill served in Scotland, but he hoped some remedies might be found to prevent the inconveniences which might arise from the act."* The king dismissed some of his Scottish ministers, and endeavoured to adjust the official administration of the country to his views, but no minister dared to check the national feeling, or was prepared to purchase the countenance of the king by services which would be branded as the grossest national treachery. Thus the king could not oppose the movement in Scotland, but he was resolved that it should have rather discouragement than assistance elsewhere. The remonstrances of Spain justified his severity, and completed all that was wanting to his determination to baffle the project, and undermine the company. He would not have permitted any interest, which he viewed even with partiality, to interfere with his European policy. His great aim was to destroy the continental preponderance of France, and he would not at that time have permitted the most cherished national interests of Scotland to involve him in a dispute with Spain. He therefore unhesitatingly abandoned the projectors to the mercy of that

* Parl. Hist., v., 976.

power, and allowed it to be understood that the Scottish act of parliament and letters patent were mere waste paper. But not content with thus abandoning them, he instructed the governors of the colonies in the Atlantic, through the English secretary of state, to issue proclamations against them. The form of proclamation adopted was: "I do strictly charge and require all and every his majesty's subjects that upon no pretence whatever they hold any correspondence with the Scots aforesaid, or give them any assistance with arms, ammunition, provision, or anything whatsoever, either by themselves, or any other for them; nor assist them with any of their shipping, or of the English nations, upon pain of his majesty's displeasure, and suffering the severest punishment."

In these circumstances, the failure to supply the colonists with provisions was equivalent to leaving them to starvation, since the English colonies dared not if they would supply them according to the credit sent out from Scotland. After having remained for seven months, every day seeing their numbers decrease, the abject remnant took to their ships as the last resort. A fellow-countryman, who saw some of them seeking refuge in New York, observed that the necessity which had driven them forth could easily be inferred, "for famine and death

were discernible in their countenances at the first aspect." Paterson's spirit stood out to the last. Even in the death-blow of the proclamations he could see no absolute reason for abandoning the enterprise, and proposed that the colonists should take to the vessels, "and live upon turtling and fishing for some time, till we should see if any news or recruits came from Scotland." In his official report to his constituents he gave this pathetic account of his difficulties: "Although considering our low and depressed condition for want of supplies, the prohibiting the king's English subjects from trading, or so much as corresponding with us, was very discouraging, yet the declaring we had broken the peace, and by consequence declaring us pirates before we had been once heard or summoned to answer, so very contrary to the usual proceeding even in case of real piracy, was most of all surprising, and became the general occasion of people's concluding, that the long silence of our country proceeded from no other cause but that they were browbeaten out of it, and durst not so much as send word to us to shift for ourselves." When the final departure took place, his spirit, so long unnaturally maintained, broke at once, and in the expressive terms of a bystander, "The grief has broke Mr. Paterson's heart and brain, and

now he's a child, they may do what they will for him."

The fugitives embarked, without any distinct intentions, "for the first port Providence might carry them to," as one who witnessed their departure expressed it. They set sail in three ships, which from sickness and extermination they were unable to manage in any but the finest weather. Of the first of the vessels which reached New York, the company's correspondent said: "The *Caledonia*, which weighed anchor first, has thrown overboard one hundred men who died since they left Darien, their whole complement or equal share of men being but three hundred in all. And yet they reckon themselves the healthiest ship of all the three; and, notwithstanding of all this, they have loosed and are loosing men who are dying daily in this place since their arrival."

It was made a question of difficulty whether, after the king's proclamations, the unfortunate fugitives could be on any terms supplied with food. It was at once decided that they could not traffic for it: and it was only at last by humanity prevailing over prudence that they were permitted to purchase, on the credit of the company, the food necessary to sustain life. In the West Indies, the proclamations were more sternly interpreted, and one

of the vessels landing at Port Royal was seized and condemned as a prize; but this proceeding was not sanctioned by the home government, and the vessel was subsequently released.

So far the history of the Darien expedition appears to be a narrative of pure oppression by a strong country on a weak. Justice, however, requires the investigator, writing after the lapse of a century and a half has buried the sufferings and animosities of persons and nations, to show that the company were not utterly blameless martyrs. They had mistaken their capacity when they tried to compete with the long-practiced traders of England. Their goods were ill-sorted; they did not know how to trade in them; they wanted extravagant profits, and did not readily adopt the merchants' doctrine of submitting to fate and selling off miscalculated merchandise at what it will bring. Worse still—instead of having the government of their colony firmly attached to a predominant home administration—at least, until it could govern itself—it was embarked with a general license to make a constitution for itself. It might be maintained that there was in this more of necessity than choice; since the king had cast off, instead of cherishing and protecting, the infant colony. This should have rendered it more imperative on those who managed

the expedition to have a system of government organised beforehand, which—if it were not enforceable by a central regal authority—might at all events have the sanction of the holders of the purse at home, who should aid the colony with the large funds subscribed to the company, so far as it followed the constitution under which it was despatched, but no further. A very ingenious constitution was framed for the colony, but it was unfortunately framed by the colonists themselves, instead of by those who had sent them out, and thus wanted central controlling authority. Each member of the colony was at liberty to struggle for power and emolument; and the conflict was one in which the unscrupulous appear to have often gained their ends, by the submission of those who thought that any system of rule was better than anarchy. An elective president was appointed. Paterson desired that this officer should at least hold power for a month. But he was among spirits too impatient to submit to even so long an inequality, and the insane arrangement of shifting the president every week was adopted. Selfish as they were, the aims of the leading colonists naturally grouped themselves into partisanship; and among others there were the seamen's and the landsmen's parties, each hating and undermining the other. In the midst of their

common miseries they could not abstain from treasuring up accusations against each other to perplex and further distress their fellow-sufferers in Scotland.

But an investigation of their private papers gives reason for suspecting that they were not entirely free of the great maritime vice of the age, which simply consisted in those who had a force on the high seas confounding friends and enemies. One of the great causes of alarm to the colonists—one of those things which seem to have so utterly paralysed them—was a rumour, which some of them mention in their private letters, that the harshness of William III. towards them was merely a preparation for their being, so soon as they could be apprehended, tried and hanged as pirates. Now, singular as it may appear, since no such charge against them seems ever to have been made even by their enemies—a charge which one would think the government of William would have followed up with the utmost rigour—there is reason, from their own private papers, to believe that they were not quite clear on this matter, and that conscience made cowards of them. Not that, supposing the inference from what we are going to quote to be even of the most unfavourable kind, it is to be confounded with ordinary robber piracy. In the high

seas at that time there were alliances and conflicts, peace and war, without reference to treaties and declarations issued at Paris and London. Each European war lingered and died gradually away in the conflicts of half-privateer, half-pirate vessels, among the keys of the American gulfs, and some European wars had their first commencement in like distant conflicts. The Darien colonists were, perhaps, no nicer than their neighbours; and it was difficult for them to point out their friends—easy enough to find their enemies. French and Spanish vessels they appear to have seized when they could; they considered themselves at war with these nations. But they appear also to have laid hands on an English colonial vessel—a daring act, to say the least of it. Paterson, in his private report, speaks of it as a matter deeply to be regretted, and explains how he himself had been involved in it. A boat's crew from a Jamaica vessel had been detained on shore, under the plea that a boy belonging to the colony was confined in the vessel. The boy made his appearance, either having been released or never having been kidnapped, but still the boat's crew were detained. Paterson then proceeds to relate what followed in a manner which leaves much to be inferred:

"Mr. Wilmot stayed till the afternoon; and

before he went away I came to Mr. Mackay's hut, and Mr. Wilmot came also to take his leave. The rest of the councillors were then together, and upon my coming they call me in, and Mr. Mackay presents me a paper to sign, which contained a warrant to Captain Robert Drummond to take boats and go and bring in Captain Mathias his sloop. When I asked what reasons they had for it, Mr. Mackay answered, that they were informed that this sloop was a Spanish sloop, and was fraughted by three Spanish captains now on board her, and bound for Portubell, with I know not what, for a treasure of gold and silver bars; and added, I warrant you will not meddle, for your friend Mr. Wilmot is concerned. This usage did not please me. But, however, I told them if she was a Spanish sloop I was as ready as they; but if belonging to any other nation I would not be concerned. But, however, *I signed the warrant to bring in the sloop.* When she was brought, instead of a Spanish we found her a Jamaica sloop with two Spanish passengers, and, as I heard, about eighty or one hundred pounds value in pieces of eight, Spanish pistolls, and gold dust. When I found this I must needs say I was very angry, and endeavoured to get the sloop and men discharged next day, as being an English bottom. To this effect I laid the law before Pennicook,

and afterwards to Mr. Mackay, who, by this time, had brought the men and money out of the sloop. Upon this I said I would write home on this matter, and then left them. Upon this occasion, God knows, my concern was not upon my own account, or any humour of my own, but the true love of justice and good of the colony; in which concern and spirit I heartily wished that they might not have cause to repent of their inhuman usage of those before any other friendly strangers came to visit them—or to this effect. When I was gone, there was a council called, consisting of Pennicook, Mackay, Montgomery, and Jolly, where, as the secretary told me afterwards, they confirmed the taking of the two Spaniards and the money from on board the Jamaica sloop."

It is singular that through all the fierce controversy of the day, the admission of a charge making apparently a close approach to piracy, should lie among the private papers of the company unnoticed until the middle of the nineteenth century; but a reason for this has been already suggested. On poor Paterson this affair appears to have pressed along with his other troubles; and he speaks with all the true pathos of simple sincerity about the condition to which personal disease, the

misfortunes of his friends, and his own baffled hopes, had conspired to sink him:

"About the 5th of June, I was taken very ill of a fever; but trouble of mind, as I found afterwards, was none of the least causes thereof. By the 9th or 10th of June, all the councillors and most of the officers, with their baggage, were on board the several ships, and I left alone on shore in a weak condition. None visited me except Captain Thomas Drummond, who, with me, still lamented our thoughts of leaving the place, and praying God that we might but hear from our country before we left the coast; but others were in so great haste, that all the guns in the fort, at least those belonging to the *St. Andrew*, had been left behind but for the care and vigilance of Captain Thomas Drummond.

"In my sickness, besides the general concern of my spirits, I was much troubled by a report spread abroad of Captain Pennicook as designing to run away with the ship, on pretence that we were proclaimed pirrots (pirates), and should be all hanged when we came home—or, at least, the company would never pay the seamen their wages."

It was in the latter end of the month of June that the shattered remnant of the colony left their

forts and huts. The heads of the company at home, who had heard little but exulting news from the expedition, were in the mean time fitting out a reinforcement. The vessels were just about to depart from the west coast of Scotland, when the directors received through private and circuitous sources indirect mutterings, which gradually grew into distinct announcements of some terrible calamity having swept their original colony from the spot on which they were supposed to be lengthening their ropes and strengthening their stakes. But while they were yet unauthenticated, the new expedition were warned not to believe in these idle rumours. The directors thus address them when wavering on departure (22nd September, 1699): "We are advised of a story made and propagate in England, viz., that the Scots have deserted their colony of Caledonia for fear of the Spaniards at Cartagena, an enemy that take much tyme before they be ready to make any attack, and of whom we never heard that our people were afrayd. The story is altogether malicious and false, and is contrived on purpose to discourage people to go to our colony with provisions, &c., since they find their proclamations in the West Indies, and all their other methods against, has not had the designed effect." But when the rumour was confirmed, and the new

expedition had sailed, they had to send after it despatches of a different character,—which yet, in the admission of disaster, bore a tone of high resolution and proud defiance,—instructing them, should the fort be in possession of enemies, immediately to besiege it and attempt its recovery. This second detachment came, however, to a more rapidly fatal termination than the first. The solitude and silence, where they expected to find a busy, prosperous colony, sent an immediate chill to their hearts, with which they were unable to combat. Illness and mortality attacked them; their best vessel was burned, and speedily they resolved to depart from the scene of disaster; all, save eight, who bravely determined to cast their lot with a third detachment, whom they believed to be then in the Atlantic.

This last body was of a thoroughly warlike character, for it was fitted up after the news of Spanish, French, and even English hostility to the project had reached Scotland. The commissions granted to the commanders of the vessels had an evident reference to the probability of hostile encounters with English vessels. They were in these defying terms:

"You are hereby ordered not to suffer, so far as you are able, the said company's ship under your

command to be insulted during the voyage by the ships of war of any nation, nor to search your said ship, nor suffer your men to be pressed on any pretence whatsoever. But by force of arms, if need be, you are to defend your trade and navigation pursuant to the powers and privileges granted to our company by the act of parliament herewith delivered unto you. Nor are you to have regard to any order which the commanders of any ships of war or others may happen to pretend for searching, pressing, or detaining, as aforesaid, unless the same be signed by the king, and countersigned either by the king, or his secretary of state for the kingdom of Scotland,—for doing whereof this shall be to you a sufficient warrant."

This third detachment appears to have started in ignorance of even the first desertion of the colony. They were prepared to see the original settlement flourishing and augmented. What they found may be told in the words of one of their chaplains:

"Upon our arrival in this new world we met with a sorrowful and crushing-like dispensation, for, expecting here to meet with our friends and countrymen, we found nothing but a waste, howling wilderness—the colony deserted and gone—their huts all burned—their fort most part ruined—the ground which they had cleared adjoining to the

fort all overgrown with shrubs and weeds. We looked for peace, but we found war; and for a time of health and comfort, but behold trouble. Our arrival at this place was much like David's coming with his little army to Ziklag of old, where, expecting to meet with their friends and relations in peace, they found the town burnt and laid waste, their relations all gone they knew not whither, so that the people lift up their voice and wept sore. Our disappointment was like theirs in Job vi., 19, 20: "The troops of Tema looked, the companies of Sheba waited for them. They were confounded because they had hoped; they came thither, and were ashamed." It was, therefore, no wonder that our people were sadly discouraged upon their coming thither, and the rather because they were ill-fitted and furnished to begin a new plantation, and had not materials suitable to such a design, which they expected to find here before them. Our party were not sent forth to settle a colony, but only to be a recruit and supply to a colony which we expected in some measure already settled, and sufficiently furnished with tools and instruments for such a design."[*]

The reverend gentleman who thus writes was

[*] The History of Darien, by the Rev. Francis Borland, p. 30.

sent, with others, by the Church of Scotland, to take the spiritual command of the new empire. They received a pretty broad commission "to take charge of the souls of the colony, and to erect a presbytery, with a moderator, clerk, and record of proceedings, to appoint ruling elders, deacons, overseers of the manners of the people, and assistants in the exercise of Church discipline and government, and to hold regular kirk sessions." According to Sir John Dalrymple, the clergymen endeavoured to stretch their discipline very far. He says—what, however, we have not seen any earlier authority for—that "they exhausted the spirits of the people, by requiring their attendance at sermon four or five hours at a stretch, relieving each other by preaching alternately, but allowing no relief to their hearers. The employment of one of the days set aside for religious exercise, which was a Wednesday, they divided into three parts—thanksgiving, humiliation, and supplication, in which three ministers followed each other. And as the service of the Church of Scotland consists of a lecture with a comment, a sermon, two prayers, three psalms, and a blessing, the work of that day, upon an average of the length of the service of that age, could not take up less than twelve hours, during which space of time the colony was collected, and kept close together in the

guard-room, which was used as a church, in a tropical climate, and in a sickly season."*

These clergymen appear to have been influenced by a very honest and sincere zeal, but, far from being able to make a presbytery with its kirk services, they got no better accommodation than the cabins in which they had sailed; and Mr. Borland almost poetically says, "When the ministers here did meet, it was ordinarily in the dark and silent woods—*inter densas umbrosa cacumina sylvas*†—where, I suppose, such guests and exercises never had been before." The rev. gentleman indeed appears to have seriously lost his temper under the slights and hardships which he endured. The absence of any great predominant power at sea, such as Britain now wields, made almost all the colonists and distant traders of that day lax, rough-handed, and unscrupulous. Yet let us hope that the rev. gentleman's account of his fellow-colonists must be at least as great an exaggeration as Sir John Dalrymple's accusation of clerical domination. "The source," he says, "and fountain, and cause of all our miseries, we brought from our own country with us, arising from the inconsiderate choice that was made there

* Dalrymple's Memoirs, ii., 98.

† *Sylvas* should be *fagos*. The quotation is from the Eclogue to Alexis—an odd one for a clergyman to cite.

of the worst of men to go along with us, that ever were sent to command or serve in a colony, which, in the judgment of God, our land hath spewed forth as its scum; and no spot on God's earth can retain or receive, but as a burthen to it." And he and his brethren, reporting to their constituents in Scotland, summed up the iniquities of the spot in these forcible words: "There have abounded, and do still remain among us, such abominations as the rudest heathens, from the light of nature, do abhor; such as atheistical swearing and cursing, brutish drunkenness, detestable lying and prevaricating, obscene and filthy talking, mocking of godliness; yea, and among too many of the meaner sort, base thieving and pilfering, besides Sabbath-breaking, contempt of all Gospel ordinances, &c., which are stumbling to the very Indians, opprobrious to the Christian name, and reproachful to the Church and nation to which we belong."*

It would be uncandid to represent this as an unsupported condemnation by the clerical ministers of the colony. Four of the council, reporting to the directors at home, complain of some of their servants who have "proven knaves;" and this prompts them to say: "We are vexed beyond measure with hearing, judging, and punishing them and other

* Dalrymple, ii., 100.

rascals, of which kind there was never so great a collection among so few men." But, in truth, they were all disappointed and desperate—they had gone where all example was that of the buccaneer and pirate; their own country's government could not protect them—the hands of all others were against them. They were driven into ruffianism; and an attempt made by some of the sailors to seize one of the vessels and make off with it, was but a natural result of the chaotic and helpless condition of this poor colony from the beginning. Everything was again involved in miserable and palpable mismanagement. "Whereas," says one of the reports, "there were ample accounts given of the natives being at war with the Spaniards, and that they were our fast friends, we find two of their captains, viz., Pedro and Augustine, with silver-headed staves as Spanish captains, willing, notwithstanding, to go with us and plunder the Spaniards, as, no doubt, they would do us, if the Spaniards would help them." And, in another report, with many complaints of embezzlements and dishonesties, they thus speak of their commercial position with a kind of ludicrous helplessness: "We cannot conceive for what end so much thin grey paper and so many little blue bonnets were sent here, being utterly useless, and not worth their room in a ship. It cannot be unknown to your honours that we have not 50*l.* sterling of

vendible goods belonging to the company, and therefore our relief—if we get any—must come from Scotland, either in provisions, or credit which can be effectual, ere we starve for want." The directors at home, however, still talked big; and there is something sadly ridiculous in the antithetic tone of the communications which crossed each other, and now lie side by side in the old press. "Amongst many others," the directors say, "there was *one* particular error which the old council was guilty of, namely, their coming away in the manner they did, without ever calling a parliament or a general meeting of the colony, or consulting their inclinations in the least: but commanding them to a blind and implicit obedience, which is more than they can ever be able to answer for. Wherefore we desire you would constitute a parliament, whose advice you are to take in important matters; and, in the mean time, you are to acquaint the officers and planters with the constitutions, and with the few additional ones sent by Mr. Mackay; and that all and every person in the colony may know their duty, advantages, and privileges; and to the end that God may give you a blessing to all your endeavours, we earnestly press and recommend it to you, that you study all reasonable measures to discountenance and suppress all manner of riots and immoralities; but especially

that you encourage virtue and discourage vice, by the example of your own lives; and give all the necessary assistance to your ministers, in establishing discipline and good order among your people."

Alas, poor fellows, instead of offering an example in their own lives on this high scale, they were but seeking to preserve their lives; and while their constituents talked largely of a parliament, they were thinking where they would get food. Yet one gleam of heroic sunshine flashed over the dreary struggle of this third body of emigrants. An experienced and daring soldier, Campbell of Finab, was sent over as their military leader. He brought them in contact with the Spaniards; and, discouraged and broken as they were, they fought with the old fierce determination of their race, and were victorious. Through some almost accidental means, an account of this affair reached Scotland separately from the disastrous history which followed it; and none of the great British victories of the last European war excited so hearty a fit of national rejoicing as this minute skirmish called forth throughout the nation. Arnot, the local historian of Edinburgh, says that, "Upon the news being received of the defeat of the Spaniards, a mob arose, obliged the inhabitants to illuminate their windows, committed outrages upon the houses of those who did not

honour them by compliance, secured the avenues to the city, and proceeded to the tolbooth, the doors of which they burnt, and set at liberty two printers, who had been confined for printing pamphlets reflecting on the government."*

But this gleam of success was brief indeed. A Spanish force, so powerful as to render resistance preposterous, invested the colony by sea and land, and, with resignation to their fate, the haughty Scots had to capitulate.

It was the fate of the company ever to make efforts at the wrong time. When the capitulation was signed, a reinforcing expedition—the fourth in number—was on its way out, full of hope and ambition. One of those who had gone with the first expedition accompanied this as supercargo. He preserved a diary of the voyage, in which, after some ordinary perils and uncertainties, we find him thus describing his arrival at his place of destination:

"We made Golden Island of a truth, and all its marks were known plainly to me. We then sent away our boat, and I wrote two letters along with it; one to the council of the colony, showing them where we were, and from whence, and desiring a pilot to conduct us in. I wrote another to Captain Andrew Stewart, the Earl of Galloway's brother.

* History of Edinburgh, p. 185.

By the time we judged our men had got in we heard two cannon from the fort. We fired one, and they another, as we supposed in return. We then no longer doubted but our countrymen were there, and so set out our boat to tow us in, for it had been calm some more than an hour before; otherwise I am persuaded we had gone in, and the Lord knows what might have been the event. * * * But before we could come near the black rock, or in sight of the garrison, we saw our boat returning, yet dreaded nothing of the fatal news they brought us. On the contrary, we were big with the fancy of seeing our countrymen in general in quiet possession of the place, and especially some of us were full of the expectation of seeing our dear friends, comrades, and acquaintances. In short, there was nothing but a general mirth and jollity amongst us. But, alas, it was soon damped when our boat came aboard, giving us the lamentable and dismal account of the Spanish ensigns on our fort, with that nation in possession thereof; and that the guns we had imagined fired by our countrymen in token of gladness at our arrival, were, by the Spaniards, shot at our boat when she was making her escape from them, after having discovered who they were, both by their ensigns and speech, having answered them in Spanish to what they demanded of them. When

our men rowed close to their fort, not doubting but they were our friends till such time as they came to discover so many different sorts of liveries, as red, blue, grey, and yellow;—then beginning to doubt, considering their ensigns, they lay off upon their oars, and our chief mate, James Knight, asked in English to whom that place belonged, and all that he could understand of their answer was *venica fruanna*,* which signifies, "come here, good man." Then our men began to put off, which they no sooner see but they begun to fire, which were the shots before mentioned."

The narrator—a certain Captain Patrick Macdowall—determined to approach with a boat and test the accuracy of this information. He saw on his approach the Spanish colours pulled down, but no response was made to his own flag of truce, nor could he extract from them anything to break an obdurate and suspicious silence, under which he rowed back to his vessel, making the following note of what he observed:

"While we lay closest to the fort, I made it my business to observe the posture of things ashore as narrowly as possibly. I observed a great part of the rampart intire towards the look-out, and perfectly our postern gate. I observed several very good houses, and a fort where Mr. Mackay's house stood.

* *Sic* in MS.

I saw some guns on the point battery; but how many I could not well distinguish. I observed the men in vast numbers and their several liveries. Where their look-out can be I cannot tell, but there is no watchhouse where ours stood." Such was the last glimpse which the adventurers obtained of their El Dorado—the mart that was to conjoin the trade of the Pacific and Atlantic—the land of delicious fruit and turtles—of spices and gorgeous dyes—of silver and gold.

It is now time to turn to the national storm which was brewing in Scotland. The feeling of indignation against England was almost nationally unanimous. The rich felt it both in their mortified pride and their lost fortunes; and the humbler classes, down to the lowest street-rabble of Glasgow and Edinburgh, joined in the general shout, that the nation had been sacrificed to the greed of the English traders and the ambition of the revolution monarch. Every calamity—whether caused by elemental disturbance or the folly and vacillation of the inexperienced speculators—swelled the tide of wrath; and the Jacobites saw a reactionary force gathering against the revolution too naturally strong to need their aid. It was better that they should merely look on. The records of parliament and the privy council show traces of deep perplexity in those official persons who had sworn to serve the

king, yet could not be the true ministers of his wishes without something like national treachery. On the 17th of January, 1701, a long series of resolutions of the Scottish parliament was embodied in an address to the king, in which the proceedings of the company were pronounced lawful and justifiable; the proclamations against them by the governors of English colonies were denounced; and it was declared that the proceedings of the English parliament on the subject were "an undue intermeddling in the affairs of this kingdom, and an invasion upon the sovereignty and independence of our king and parliament." Some of the more violent spirits wished to add a clause, that the advisers of the proceedings in the English parliament and of the proclamations "have done what in them lay to create jealousies and animosities betwixt the two kingdoms—and, if subjects of this kingdom, are traitors to the king and country—and, when discovered, ought to be prosecute accordingly;" but this clause was withdrawn. A more formidable proposal, that instead of an address to the king, which he might answer as he saw fit, its terms should be embodied in an act of parliament, came to a division, but was lost by 108 to 84. The minority became popular heroes; and a caricaturist so offensively represented the majority, that a state

prosecution was attempted; but the jury would not convict him.

In the mean time, the death of the Princess Anne's last child suggested that *act of security*, which was afterwards passed to the consternation of English statesmen. It settled the succession of the crown, on the principle that he who was monarch of England should be disqualified by that fact to succeed to the crown of Scotland, until the national grievances were redressed. After the fashion of the English parliament, war was made on pamphleteers obnoxious to the prevailing party. A surgeon named Walter Harris had favoured the king's side of the question in a pamphlet called "A Defence of the Scots Abdicating Darien." This the parliament directed to be burned by the common hangman as "a blasphemous, scandalous, and calumnious libel;" and a reward of six thousand pounds in Scots money was offered for his apprehension. The Scottish secretary of state had to issue a proclamation in the king's name to apprehend and prosecute the man who had vindicated the king; and the printed placard to that effect may yet be seen. In the fierce debates which attended these proceedings, the lord commissioner—the representative of majesty—was sore perplexed, and literally wist not what to do. The minutes of the parlia-

ment of the 13th of June, for instance, contain an adjournment by him thus prefaced: "I am troubled with such a cold and hoarseness, that not being able to speak much, nor in a condition to stay any time here, I shall therefore only tell you that, as I was ever firm and faithful to my king, so I was ever zealous for the honour and interest of my country; and at this time I hoped to have done acceptable service to both."

The Dutch monarch met the storm with his usual imperturbable firmness both of nerve and temper. But there were feelings and principles actuating the Scottish nation which could not but meet with respect by one who had fought like him against arbitrary power. The historians of the period have preserved an anecdote about the many addresses from all quarters which were poured in upon the monarch. One was to be presented by an enthusiastic young nobleman, Lord Basil Hamilton. The king refused him access.* Lord Basil took an opportunity, as the king was leaving the place of audience, to stop him and present the address with some sharp comments. "That young man is too bold," said William; but then his sympathy with a gallant spirit triumphing, he continued—"if a man

* This part of the anecdote is confirmed by a letter of the king, recorded in the Minutes of the Scottish Privy Council.

can be too bold in the cause of his country." William, in fact, showed, even in the reserve of his communications to the Scottish privy council and parliament, a real sympathy with the nation and its calamities. He coupled these expressions with some vague desires "to grant what may be needful for the relief and care of the kingdom, and the advancement and welfare of all its concerns." Doubtless in his busy brain he was endeavouring to reconcile justice to the Scots with the necessary deference to the interested prejudices of the English merchants, and the strength of his game in European politics, when his active life was terminated by a fall from a horse, at an age eight years less than that reached by a British statesman of late times, whose death, occasioned by the same form of accident, was lamented as cutting off many years of valuable existence.

With the accession of Queen Anne came a movement towards a legislative union of the kingdoms. This promised a final settlement of all difficulties, but it was in itself so difficult an object to accomplish, that the events which we are going to narrate, driving the dispute to a more fierce and critical juncture, seem to have been absolutely necessary to the result, which has conferred on Britain so great and lasting a blessing. In 1703 a Jacobite plot was

discovered. It raised indignant remarks in the English parliament. These in their turn were treated by the Scottish parliament as an act of national aggression. The Act of Security was brought in and passed, and the supplies were suspended until it should receive the royal assent. This assent was refused through the influence of the English statesmen on the queen. It was repassed by the Scottish parliament, where Fletcher and others began to teach the formidable doctrine that the royal assent was a mere matter of form not necessary to the validity of the acts passed by the Scottish parliament. The act at last (1704) received the royal assent, and thus it was decreed that on the queen's death the two crowns of Scotland and England should descend to different heirs unless such concessions were made as should satisfy the Scots.

In the mean time, the English trading corporations, actuated by the spirit of commercial jealousy, did some things which justified in its most offensive form the complaint of the Scots, that England would neither permit them to make separate trading alliances, nor to participate in her own colonial commerce.

It was among the projects of the Scottish company to trade with India, where they encountered

in rivalship that great corporation which was destined to fill so large a place in the world's history. India was not yet, however, an English possession, nor was it a country at war with England; so that there were no diplomatic grounds on which an independent state like Scotland, in alliance with England, could be driven out of that trade. The Darien company, however, got a vessel, called the *Annandale*, fitted up in England for the India trade, employing an English commander and some English sailors. It appears to have been their intention to proceed straight to India, but seeing that this would be a direct infringement of the privileges of the East India Company, the vessel was, in the first place, cleared for Scotland. The Scottish company had the misfortune to quarrel with their commander, Ap Rice, who supplied the English company with information to suit their purposes. While the vessel was in the Downs, she was boarded by custom-house officers, aided by the armed crew of a man-of-war. The vessel was taken possession of, and the cargo, including, according to the statement of the Scots company, certain chests of treasure, seized, and put under guard. The supercargo said, that when he showed the queen's commission as Queen of Scotland, to the tide surveyor in command of the invaders, "he said that he valued it not a pin, for

that he had the English East India Company's warrant to indemnify him, and that they had a long purse to defend themselves in Westminster Hall." The Scottish ministers of course interceded for restitution; but this was only one of many instances in that reign, where English law was too strong to be modified by any such diplomatic expediency as might have suggested the propriety of avoiding, at that time, acts calculated to increase the irritation of the Scots. After a tedious litigation, in which there were nine counsel employed by the English, and eight by the Scottish company, the ship *Annandale* and her cargo were forfeited by the Court of Exchequer, under the statutes in favour of the East India Company.

It so chanced that at this juncture, a vessel called the *Worcester*, attacked by foul weather near the east coast of Scotland, ran into the Frith of Forth, and cast anchor in the harbour of Burnt Island, right opposite to Edinburgh. While mens' minds were full of the national insult offered to the country in the condemnation of the *Annandale*, it was whispered that the *Worcester* belonged to that very East India Company at whose instance the Scottish vessel had been condemned; and, as the rumour grew, people exulted in the retributive providence that had sent that vessel to the very spot where it

could be made the instrument of avenging the national wrongs of Scotland. It may be mentioned that the *Worcester* does not appear to have belonged to the old East India Company, at whose instance the *Annandale* was condemned, but to have been rather connected with its new rival, called the Two Million Company; but the distinction was one easily obliterated by those who addressed a people burning with patriotic indignation.

It is singular that an event of so much importance in British history as the seizure of this ship—of so much importance, since it was the crisis which rendered the union necessary—should have been so little noticed by historians. It is stated in all the histories of the period that the vessel was seized by the Scottish government; but it has now to be shown how the official staff of the Darien Company performed that service. In a corner of the oaken press containing the books and documents of the company, the writer of this account found a crumpled, unsorted series of letters, seemingly huddled together as useless papers. He was tempted to employ some leisure hours in unfolding them, and was pretty well rewarded, since, along with many documents of little interest, he found among them a series of letters from Mr. Roderick Mackenzie, secretary of the company, containing an account of the manner in which he

seized and kept possession of the ship. This story is a little romance in itself, the more active portion of which, at least, had better be told in his own words. Among these documents there is a warrant by the court of directors, authorising Mackenzie to take measures for seizing the vessel by force of arms if need be, "in name, and for the use of, the said Scots company; not only for having, contrary to the rights and privileges of the said Scots company, without their license and authority, imported and clandestinely sold East India goods into this kingdom, but likewise upon account of reprisal, as belonging to the English East India Company."

In a long letter addressed to the directors, Mr. Mackenzie gives an account of the manner in which he fulfilled his commission. It is dated 2nd September, 1704, but the seizure took place on the 12th of August. The first part of the letter contains many reflections, and some observations on the nature of the duty he had undertaken. All these we may pass over, and come at once to the scene of action:

"The chief and almost only difficulty that remained with me was how, with secrecy and despatch, to get together a sufficient number of such genteel pretty fellows as would, of their own free accord, on a sudden advertisement, be willing to accompany me upon this adventure, and whose dress and behaviour

would not render them suspected of any uncommon design in going aboard; nor had I a power to compel any man.

"For this end, the day happening luckily enough to be Saturday (the general holy-day or rather play-day in this place), I stept immediately towards the City Cross, with the most unconcerned air that I could put on, and ask't such of my acquaintance as I met, and thought fitt for my purpose, whether they would not go and take a Saturday's dinner somewhere in the countrey, with me and and a friend or two of mine? I made use of the same general topick to all of them, for distinguishing such as were not then engaged about any particular business; and to these only I addressed myself further, with more or less freedom, according as I found their several pulses beat.

"I shall not trouble you with a recital of all the diverting humours that I observed in ingaging such as I thought fitt persons to bear a part in our little adventure; but, in short (without naming of names), some persons to whom I had cautiously enough drop't my mind, and who had condescended to go along, gave me the slip at Edinburgh, and others did the like after they had gone as far as Leith and Newhaven. Yet, after all, there remained with me still eleven persons, who, tho' most of them be as

good gentlemen and (I must own) much prettier fellows than I pretend to be, yet, through mere commeradship to myself, and love to the design they saw me ingaged in, they not only frankly and freely condescended to bear a share in my fate that day, but likewise, seeing I was the only person directly commissioned by our company, they generously subjected themselves to my conduct and directions, as implicitly as if they had belonged to some disciplined troop under my command; for which cause, and for their subsequent behaviour, I question not but that my constituents will, in due time, enable and impower me, in their names, to make these gentlemen some acknowledgment suitable to the merit of their services.

"My eleven companions and I, having soon concerted measures, and being all of us armed with swords, pocket pistols, and some with bayonets too, three of them and myself and servant only, went first of all aboard, with the very first of the evening tide, in a boat from Leith, taking along with us some wine, brandy, sugar, lime-juice, &c., to pave the way for those that should come after us; four more followed some time thereafter, in a boat from Newhaven; and while I was tongue-pading and entertaining the ship-officers with a hearty bowle in the cabin, my friends got aboard unsuspected; the third boat, with the last four of our friends, made a faint towards the man-

of-war that lay then in the road; and calling for the captain (whom they knew to have been ashoar), made some pretence to go aboard out of curiosity, to view the ship; and, in a short time thereafter, came from the man-of-war towards the East India ship. By this time we were all very busy aboard, some drinking and others merchandising, till these who were in the third boat got likewise easily aboard unsuspected. We seemed to be very little acquainted with them, till that the boatswain, happening to complain that they had but little room and small conveniency aboard for entertaining persons of quality, and that several gentlemen were drinking between decks, I took occasion to say that I believed we had taken up too much of their room, and desired him, therefore, cause make ready our boat, that we might give way to others by turns; which the boatswain and other officers would not hear of, but said I was heartily welcome to stay as long as I pleased; I told them, since the incommoding of their friends was occasioned by our possessing the cabin, the least reparation we ought to make was to invite them and their friends to partake of our bowle, especially seing we had more liquor than we could well drink during the short time that we were to stay on board; whereupon, with abundance of thanks, ceremony, and complement, they introduced

into our company our own friends under the notion of theirs.

" We projected likewise to ourselves, for the greater security, to have got one of the best ferry-boats of Burntisland well manned, with design to have her lying off at some distance, till we had given some signal from the ship to clap us immediately aboard; and we who had got first aboard, should in the mean time give such diversion, one way or other, to the ship's crew, as might disable them from firing any great gunns at the boat. But the shortness of time to which I found myself limited, could not possibly admitt of any such formal preparation, so that we who were got aboard, being fairly without suspicion, joined together in manner foresaid; what then remained only to be thought of was to put our design in execution the best way we could, since we were to expect no other help.

" I saw that (small and great) there were about double our number on board, so that before we could attempt anything, it was absolutely necessary to decoy all the officers into the cabin, thereby to render the common sailers headless without command, which at last we got done by lulling all the crew into a full security, with drinking, singing, &c.

" At my first coming on board, I took (as it were) out of curiosity a survey of the ship's condition,

and would needs see what conveniences they had got between decks, in the gun-room and forecastle, &c. Some of my companions were now and then for an amusement stepping out upon deck, and we agreed upon a watchword, when we should plant ourselves thus: two to guard the gun-room door, two on the main-deck, by the forecastle, two on the quarter-deck, and the other five with myself in the cabin. And really were you to be entertained with all the several humours and little pleasant interludes that happened before, at, and after the time of our going on board, till the end of the show (besides their mistaking me, forsooth, for some lord, and their treating me as such, and my taking upon me accordingly), I am persuaded you'd think the whole a most compleat scene of a comedy, acted to the life; and to conclude the story, I may say, the ship was at last taken with a Scot's song.

"It's true the carpenter and some others of the crew attempted to give us a pretty rugged chorus, by laying hands on some brass blunderbushes that hung ready charged in the cabin, but they were quickly made to lose their holds, and about nine a clock at night we became absolute masters of both ship and crew, without any bloodshed on either side. We immediately turned most of all the ordinary sailors ashoar, and after securing all the small arms,

I sealed the hatches, gun-room, lazaretta, chests, cabinets and other keepings, with our company's seal, in presence of two of the queen's waiters, the boatswain, gunner, carpenter, stewart, gunner's mate, and others of the crew, whom I keep still on board as witnesses to all that has been, or shall be acted, till the event of the cause in debate.

"After having sealed and secured the hatches, and other keeping, as aforesaid, I despatched an express to our court of directors to give them an account of our success, which you may easily believe was very agreeable news to all of them.

"I sent likewise by the same occasion a line to a skipper of my acquaintance in Leith to come aboard the next day, and bring twenty or thirty able trusty sailers along with him, which he did accordingly on Sunday, towards the evening, and upon Monday we weighed anchors, but wanting wind to fill our sails, we towed the ship with oared boats into Bruntisland harbour, where she lies now, without sail or rudder, as secure as a thief in a mill.

"We have likewise landed eight of the ship's guns, and planted them upon a fort that commands the entry into the harbour, hired a gunner, and a competent number of stout pretty fellows to keep guard there both night and day to prevent our being surprised by any that may have a counter design upon

us till we get the ship condemned and unloaded by a judicial sentence; an account of all which proceedings being reported at large to our court of directors, on the twenty-fourth, and to the council general of our company on the twenty-sixth of the last month (where a considerable number of our chief nobility, barons, burgesses, and members of parliament were present), they all, to my great satisfaction, approved the same, *nemine contradicente*, and a process is now commenced in my name, as our company's factor, for obtaining a decreet of reprizal before the high court of admirality for condemning the ship *Worcester* and her cargo, to make good the dammages sustained by our company upon account of the ship *Annandale*.

"Our lybel is founded likewise on two separate grounds, vizt., their importing and vending East India goods here, without any licence or permission from our company, and their having on board the tipe, or counterfeit of our company's seal.

"I have been some days ago over at Bruntisland searching the captain's cabinet, chest, and writing-desk, by the judge admiral's warrant, with a macer of court, and two publick notaries in company, besides the magistrate of the place, and several other witnesses then present; and by the transient view which I have already had of the captain's books

and papers, and by some very odd expressions dropt now and then from some of the ship's crew, I have reason to suspect him as guilty of some very unwarrantable practices.

"It is now so late that I cannot enlarge on the particular remarks that I have made on some passages of the papers; but with my first conveniency I shall inform you from time to time of all the material occurrences relating to any part of this whole affair; and the return which I expect from you, is a frequent account of what you hear the English East India Company, and the immediate owners and freighters of this ship, are doing, or shall do upon this occasion."

Thus was carried out a scheme of great audacity —one such as probably never man proceeded on from the three-legged stool of a joint-stock company's office. The risk run by Mackenzie and those who aided him was imminent, not only in the unequal contest of his small civic force with a vastly preponderant body of hardy seamen, but in the certain wrath of the English government, and the questionable support of his own. And though the whole narrative has an air of gross treachery, yet, if it be looked upon not as a private transaction, but a national operation, it will bear comparison with the old-established British system of a seizure of foreign

vessels as the first announcement of war. The letters sent day by day from Mackenzie to his constituents, show his sense of responsibility and his keen anxiety; but they deal too much with small details to admit of being here quoted at length. His new duties, as commander of a captured vessel, naturally taxed the capacity of the joint-stock secretary; and his earliest desire, "Pray order some of your servants to acquaint my wife where I am," naturally recals to us the astonishment of the secretary's wife, on finding that the husband for whom she had been waiting dinner had become a naval commander. "The ship, I believe," he says to his constituents, "is the foullest in the narrow seas. There is a discreet man—one Skipper Hodge, a pilot, from Frasersburgh, on board. I have his advice quietly; and by both his and Skipper Mills' joint advice, we design (God willing), to-morrow early, to endeavour to get her into Bruntisland harbour, which they seem doubtful of performing if it be not fair weather, because she will not answer her rudder, her rudder being prodigiously overgrown with oysters, muscles, &c." Having got over his many difficulties, he next says: "This is to inform your honors further, that (thanks be to God) I am here now well arriv'd, with my masters' prize, in better condition and much sooner than was expected by any on board except myself.

We are got safe within the heads, but can get no further up the harbour (it being exactly nip-tide) till to-morrow or next day. I design to cause carry here sails ashoar to-morrow morning, for the greater security. I know there are little plots hatching against me as to my present charge, but I hope I shall be aware of them. The truth is, I cannot say I have sleept (yea, scarcely slumbered) two hours since Friday night; nor can I allow myself much ease that way till my masters' prize be as much out of harm's way as I can reasonably project.

"Here I am stopt by the arrival of Newton Drummond's son, with your honors' acceptable line, the contents of which I hope I have, in a great measure, already executed. While I have so weighty a charge in my hands, nothing shall be more acceptable to me than the frequency of orders and letters from, at least, some of your number, for my government and direction in the discharge of my duty.

"I have made use of many hands, which I procured with no small industry and difficulty; having scarce any one hand one whole day on board, but am forced to shift and change the best way I can, most of them at least pretending to be concerned in several ships that are going under Capt. Gordon's convoy, or bound by charter party on coasting voyages."

Proceedings were immediately commenced in the High Court of Admiralty, for condemning the vessel as lawful prize by reprisal. The lord chancellor brought the matter under the notice of the Scottish privy council; and there is a minute of that body, of 5th September, finding that the ship, "not being seised by any warrant or authority from the government," but by the company, "in prosecution of their own proper rights, and of the acts of parliament made and conceived in their favour," it was not for the council to interfere with the question, as it lay with the Court of Admiralty.*

But in the mean time the position of the captive vessel and her crew began to assume a more dark and mysterious aspect. One of the vessels belonging to the Darien Company, called the *Speedy Return*, having one of their most conspicuous officers, Captain Drummond, as supercargo, had been missing for three years, and indistinct rumours had reached Scotland of the ship having been taken and the crew murdered by pirates. The crew of the *Worcester* were men of a suspicious aspect — profligate in their lives and conversation—who occasionally, as Mr. Mackenzie's narrative has shown,

* Minutes of the Scottish privy council, in the General Register House; from which the references to the privy council in these pages are taken, where no intermediate source is notified.

dropped ominous expressions about some deed of darkness. What if an inscrutable Providence had in the strange turn of events delivered the robbers and murderers of their fellow-countrymen into the hands of the avengers? How these surmises began to assume a tangible shape in suspicious eyes, may best be told in some extracts from a few loose papers, seeming to have been intended by Mackenzie as the materials for a minute or journal of his daily proceedings. He records the capture of the vessel on Saturday, the 12th of August; and his attention is first arrested by the gunner, who expressed a fear that the capture was only the prelude to some design upon their lives:

"On Monday thereafter, in the forenoon, about eleven a cloak, the carpenter, Hendry Keigle, and Andrew Robertson, the gunner's mate, happening to discourse about their wages, Hendry Keigle was very anxious to go ashoar; the other said he would take his hazard; and sticking by the ship till he'd see whether he might expect his wages or not, whereupon Keigle said to him in passion, 'Damn ye —you never wrought so as to deserve wages out of anything that's aboard of this ship.' The other being calmer in his temper, answered, 'I wrought the work that I was hyred for.' Upon which the other flew out in a most extravagant passion, and abused

Robertson with his tongue to the last degree. Robertson made no return; but after some tymes pausing and walking up and down upon the main deck, crossing his arms, and putting his hands under his armpitts, and hanging down his head, without addressing his discourse to any one in particular, spoke, as near as I can remember, the very words following (after a sigh or two): 'This is the just judgment of God upon us all for the wickedness that has been committed in our last voage; and I'm afraid it will still pursue us yet further, when that now we are reduced to so small a number aboard, and four or five of us cannot agree amongst ourselves.'

"In a night or two thereafter, when the ship was gott within the heads of Bruntisland harbour, and that they were all drinking a hearty bowl of punch in the main cabin, Mr. Mackenzie happened to discourse about Captain Gordon's being a scourge to the small French privateers upon our coast, George Hains, being pretty mellow with the punch, opened up his breast, and to the hearing of the boatswain, gunner, carpenter, and gunner's mate, who were then all in the cabin (as well as several Scots gentlemen), said, flauntingly, thus: 'Lord God, our sloop, was more terrible upon the coast of Malabar than ever Captain Gordon was, or will be, to the French priva-

teers on the coast of Scotland; for a better sailer than that sloop never caried canvas;' or words to that effect.

"Mr. Mackenzie finding Hains in that mood, and walking upon the quarter-deck, being a fine moonshine night, asked him whither in their voage outward or inward, they had mett with, or heard anything of, or concerning two Scots ships that went on a trading voage beyond the Cape? Hains asked what should they be? Mr. Mackenzie told him they were two small ships belonging to the Scots company; the one commanded by Captain Drummond, and the other by Captain Steuart. Hains said, 'Yes—we heard of them, but did no see 'em.' Mr. Mackenzie then asked what he had heard of 'em? Hains answered, 'It's no great matter—you need not trouble your head about 'em, for I believe you won't see 'em in haste.' Why so, George? said Mr. Mackenzie. Hains shifted answering for some tyme, but Mackenzie, repeating the same question again more earnestly, Hains said he had heard they had turned pirrats, which was all the satisfaction he could gett at that tyme, save only, that Hains said he had heard one of 'em had eight guns, and the other twelve or fourteen, if he remembred right.

"Sometyme thereafter, George Hains falling into acquaintance with Ann Seatoun, to whom he professed a might deal of love, and being willing to

ingratiat himself into her favour at any rate—especially when he was overtaken with drink—told her the secrets of his heart to a far greater degree than Mr. Mackenzie, or any other of his company could pump out of him; and it was about that tyme that Mrs. Wilkie and her sone went to Bruntisland, to enquire news about her other son, Andrew Wilkie, who went away surgeon to Captain Drummond's ship. George Hains—his familiar discourse with Ann Seatoun—happening to take vent so as to come to the ears of Simpson Keigle and Robertson, who were then aboard, they threatened George Hains in such manner, both that night and nixt morning, that he could not be at peace till he gott ashoar again to confer with his mistress. And then it seems he prevailed with her, not only not to discover all that he had formerly told her, but lykways to deny all that she had told to Captain Red, Captain Monro, John Turrin, Kenneth Mackenzie, and others; and lykways what she had further promised to them to have discovered to Mr. Mackenzie, when he should come over the water, he being then at Edinburgh; and so it was, that ever thereafter, both George Hains and Ann Seatoun were as shy in owning anything of the premises, either to Mr. Mackenzie or any of the aforesaid gentlemen, as if no such thing had been ever said,—until that long

thereafter, she gave some declaration thereof to the committee of privy council."

The inquiry appeared to ripen by degrees, and in the middle of the month of December, Sir Francis Scott, the chairman of the company, writes to the secretary, saying that the murder of the Drummonds is publicly talked of in the streets, and that "my lord chancellor called me this afternoon and said now that the matter was in everybody's talk, he was under some obligation to call the council and acquaint them of the business." The books of the privy council now show a series of minutes devoted to this subject from the 2nd January onwards. They appointed a committee of their number to inspect the vessel. These statesmen considered it their duty to examine everything and report specifically, as if they had been officers of justice searching the chamber in which a murder had been committed. They caused the whole cargo to be unshipped and unpacked, and seem to have found their real task one of considerable difficulty. Their reports have all the particularity of invoices attenuated by law and state-paper technicalities, and one peruses their dreary details only to carry a confused recollection of casks of pepper and mangoes, bales of reeds and dye-stuffs, and such like

ordinary tropical produce. Meantime the usual judicial examinations of the crew and of those who could afford evidence took place, and the privy council issued instructions to the law officers of the crown to institute proceedings against Green and his crew for the crimes of piracy and murder.

On the 5th of March, 1705, the Court of Admiralty sat to adjudicate on the indictment. It was directed against Green himself, Madder, the chief mate, Reynolds, the second mate, and fifteen others. An indictment at that time began with a general description of the crime with which the accused was charged. It then set forth in detail, according to the evidence which the crown expected to adduce, the particular train of circumstances whence it was inferred that such a crime had been so committed. The court decided, often after lengthy pleadings, on the "relevancy" of these specific statements to support the general conclusion; that is to say, decided whether or not, if they were proved, they would justify the general inference, thus performing a large portion of the functions now left to the jury. To the unprofessional reader such a document has the advantage that it furnishes him with a connected abridgment of the evidence, but it makes the trial tedious on the whole, as before the evidence is actually taken

there is generally, as we find in the record in this case, a mass of uninteresting written pleadings on the relevancy of the particulars.*

It is now a well-established rule through all civilised jurisprudence, that the first step in criminal procedure is to ascertain that a crime has been committed, and then to find who committed it. This is what lawyers call establishing the *corpus delicti*. The opposite and dangerous rule is to accuse a person of a crime, and then discover what crime he has committed. This was unfortunately the ruling principle of the trial of Green. It never was clearly established that an act of piracy had been committed as a distinct fact, but by putting certain circumstances together it was inferred that Green was guilty of piracy. The very shape in which the accusation is set forth, shows the accusers could not point to the specific act of piracy which had been committed. It is thus: "The foresaid captain, and his said crew, belonging to the said vessel, did, upon one or other of the days of the month of February, March, April, or May, in the year 1703, encounter or meet with another ship or vessel manned by its own crew upon the coast

* See the Trial of Captain Thomas Green and his Crew, in the State Trials, xiv., 1199.

of Malabar, near Calecute; and the said vessel bearing a red flag, and having English or Scotch aboard, at least such as spoke the English language; the said Captain Thomas Green and his crew, after some intercommuning with them, did, without any lawful warrant or just cause, attack the said other vessel or ship while expecting no such treatment; and invading her first by their sloop which they had manned with guns and other arms for that purpose, they fell upon the said other vessel in an hostile manner, by shooting of guns and otherwise, and after some time fighting against her they overcame and boarded the said other vessel, and having seised their men they killed them and threw them overboard, and then carried or caused to carry away the goods that were aboard the said other vessel to their said ship the *Worcester*, and then disposed upon the said ship by selling her ashore on the said coast." Here was no specification as to the vessel taken, which might enable the accused to prove that it had not been taken; no names of parties murdered, who might be shown still to be alive; no ownership of cargo, which might admit of proof that the owner's goods had arrived safe. As Green himself is made justly to say in the document published as his dying speech, "We are condemned as pirates and mur-

derers on a coast far distant from this place—is there any of you who wants either a friend whom we have murdered, or whose goods we have taken?"

It did not make this vagueness more justifiable, that, though not stated, a specific crime was indistinctly hinted at, and in a manner calculated to rouse effectively the prejudices of the jury. One of the articles of evidence set forth in the indictment was, that one of the sailors, speaking of a person who had sailed with Captain Drummond, said that he would never more be seen. If there was anything to be inferred from this, it was, that Captain Drummond's ship was the object of the piracy. The other articles of evidence were chiefly those dubious expressions which Mr. Mackenzie had drunk in with greedy awe, along with a more distinct exclamation made by Haines the steward, "That it is a wonder that since we did not sink at sea, God hath not made the ground to swallow us up for the wickedness that has been committed during the last voyage, on board that old Bitch Bess," pointing to Captain Green's ship. It was maintained that the goods in the vessel were not stowed in mercantile fashion, but were in confusion and uncovered, as if they had been violently and hastily brought on board.

Such were the presumptions, which had to be construed with the direct testimony to be shortly

noticed, so that, as the indictment expresses it, "they being joined and connected together (as a discovery of such wickedness practised in such remote parts, and so industriously and obstinately endeavoured to be concealed deserves to be), the same in all the points and circumstances thereof—at least, such and so many of them as are relevant, and are offered to be proven by a cumulative probation—do plainly amount to such a plenary evidence as may fully convince all impartial men that the aforesaid Captain Green and his said crew, are all and each of them guilty, art and part of the foresaid crimes of piracy, robbery, and murder."

We need not cite the tedious written pleadings, which, with their metaphysical niceties, and abundant quotations from the *Corpus Juris*, and such commentators as Mathæus, Giurba, Mascardus, and Carpzovius, would startle the practical and technical mind of the Central Criminal Court. We turn to the modicum of direct evidence, which the indictment promises to conjoin with those elements of suspicion, which, of course, standing alone, could never have been offered to a jury as ostensible grounds for a conviction. One witness only, Antonio Ferdinando, the cook's mate, a negro, could speak to an actual battle. He was not very distinct as to date or other accompaniments, but he said the

Worcester had a sloop with her, and that he saw Green and the others man the sloop and attack another vessel with an English crew. He described the conflict in a rather confused manner, as lasting for three days, "and upon the third day, the said ship was boarded by those in the sloop, who, when they came aboard, did take up those of the crew of the said ship from under deck, killed them with hatchets, and threw them overboard." The prize he described as being afterwards sold on the Malabar coast, where the capture took place, to a certain Coge Commodo, a Portuguese receiver of pirated vessels. Another negro, called Antonio Francisco, was held to confirm this testimony by his statement, that, when chained to the forecastle, he heard firing and saw goods brought on board. The surgeon's testimony was held to be an important corroboration of that of the negroes. He was on shore for some weeks, when he heard firing at sea in the direction of the *Worcester*, and was told by Coge Commodo and another, "that the *Worcester* had gone out and was fighting at sea with another ship." Next day he went down to the beach, and saw the *Worcester* riding with another vessel at her stern. He found the boat coming on shore for water, "because they had spilt and staved all their water aboard; and that there had been busking all night, which the witness

understood meant that they had been at sore labour and fatigue, as if their ship had been driven from her anchor and bearing up again." On going on board he saw the deck strewed and lumbered with goods; and expressing his surprise as one who would fain know the reason of this, Madder the mate said fiercely, "Damn you, what have you to do to inquire—meddle with your plaister-box." Still more material—the surgeon had to heal some wounds, apparently gun-shot, and a jealous reserve was kept when he made any inquiry as to the cause of them. Along with the oral, there was some documentary evidence. The most important was an instruction to correspond in cypher. A fictitious alphabet is supplied to the captain, with this warning: "For the greater security of our affairs, when you write by the alphabet in your instructions, I would have you carry the last letter of each word to be in the room of the first letter of the next word; as, for example, 'Captain Thomas Bowrey Sir we are all well,' *Captai nthoma sbowre ysi rw ear eal lwell.*" "Fair trading," said Sir David Dalrymple, the counsel for the prosecution, "requires no such affectation." This gentleman's address was able and ingenious, not without some appeals to the prevailing popular frenzy, as thus:

"The crime of piracy is complex, and is made

up of oppression, robbery, and murder, committed in places far remote and solitary. And, indeed, if God had not, in a most wonderful way, brought the crimes whereof the panels stand accused, to light, they might have escaped unpunished in this world to their own eternal destruction, and to the great loss of such who may be amended or prevented by the example of their punishment. But, although the abuses now complained of happened in the vast ocean, and at no less distance than the East Indies, and that the actors were tied by obvious reason to secrecy on their own account, and were bound by a religious command not to reveal or answer questions —and, besides all these, it is most probable there was a most impious oath interposed, as used to be in such cases, and which has more force to restrain men of such desperate principles and practices than all the ties of religion or nature," &c.

This last allusion can only be understood by one who is acquainted through the perusal of private letters with the rumours of the day. One of these bore that the whole pirate crew having been bled, a portion of the blood of each was dropped into one vessel, where it was mixed with wine, and then each, taking a piece of bread, dipped it in the horrid mixture, and, by this profane sacrament, swore to keep their common crimes a secret.

The verdict of the jury was returned on the 14th of March, in these terms: "They, by plurality of votes, find that there is one clear witness as to the piracy, robbery, and murder, libelled; and that there are accumulative and concurring presumptions proven for the piracy and robbery so libelled." And the court interpreting this as a conviction, sentenced the accused to be hanged in three several instalments within flood-mark, on the sands of Leith.

No one accustomed to observe the administration of justice in this country, will now say that the evidence justified a conviction, though it leaves on the reader an impression, sufficiently distinct for the historical conclusion, that the crew of the *Worcester* had been guilty of some acts of violence, of the kind then so common in the high seas. But in reality the verdict was found by men who were fighting for national independence, and avenging national wrongs, rather than deliberately weighing evidence. It may be hoped that, never in the breast of any one of the majority who convicted these men, did the intention exist of sacrificing innocent men even to the genius of national independence; and the true interpretation of their conduct may be found in the strong prepossessions that unfitted them, and perhaps would, at such a time, have unfitted almost

every Scotsman, for the deliberative functions of the juryman.

Soon after the trial, admissions were made by some of the condemned prisoners, which only deepened the difficulty, by feeding the passions of the national party without convincing the unprejudiced. On the 27th of March, after another of the crew had made an indistinct admission, Haines the steward emitted a confession which was formally attested by the judge of the admiralty court. It admitted the crime of piracy, in terms pretty nearly the same as those in which it had been set forth in the indictment, Haines representing himself as having been an unwilling and merely passive accessary. In this confession, he professed his ignorance of the particular ship on which the piracy had been committed, and of the fate of the crew; but three days afterwards he made a supplementary confession or declaration, "that after the ship therein mentioned was seized, he saw the men which were therein killed and murdered with pole-axes and cutlasses, and saw their dead bodies put into the sloop, and thereafter thrown overboard. And to the best of the declarant's knowledge, the said men so killed were Scotsmen, the declarant having heard them speak in the Scots' language. And further declares, that the said ship then seized was

understood by the crew of the *Worcester* to have been Captain Drummond, his ship—and particularly he heard Captain Madder, John Bruckley, and the deceased Edward Cary say so. And further adds, that he would have admitted what is above before this time, but was afraid, lest his mentioning the ship so seized to belong to Captain Drummond, and the men aboard the same to have been murdered, might have rendered the government offended, and obliged them to deal hardly with the declarant." Immediately afterwards, on the 31st of March, John Bruckley the cooper also made a confession similar to the first confession of Haines, and two days afterwards added to it, in the same manner that the crew of the captured vessel were killed, and that he understood the ship was Captain Drummond's. On the appearance of Haines' confession, affidavits were sent from England, showing that Drummond's vessel had been attacked, and taken under totally different circumstances by pirates, not near the East Indies, but on the coast of Madagascar, at a time when Drummond himself was on shore — a statement which we shall find obtained a curious confirmation.

This and some other documents, among them an affidavit from one of the crew of the *Worcester*, who was naturally afraid to go to Scotland and offer his evidence, were totally insufficient to quench the

national indignation. He was deemed no true Scotsman who did not thoroughly believe that the series of events from the seizure of the Scottish vessel by the India Company downwards, were the special operations of Providence for delivering the murderers of their countrymen into their hands.

In the mean time, the news of these proceedings, spreading in England, created alarm and indignation. The temper of the times would have made the people doubtful of the guilt of the condemned, even had the evidence been more complete. How the Scottish statesmen who were removed out of the immediate atmosphere of their own nationality felt on the occasion, may be inferred from these expressions used by Secretary Johnstone, the son of the great covenanter Lord Wariston, writing confidentially his first impressions to his friend Baillie of Jerviswood. "This business of Green, &c., is the deil and all. It has spoiled all business. I am told it was two hours in the cabinet. Somers* says he knows not the laws of Scotland, but that the proceedings are illegal according to all other laws that he knows, for the ship in which the piracy was committed is not libelled, &c. In short, nobody believes it. Nay, in my opinion, faith, too,

* The name of Lord Somers is expressed in cypher by the figure 10.

in this matter must be the gift of God, for I doubt much that it's in the power of man to convince this nation of it. I was surprised to find people affirm that the evidence was suborned, and that those who confess do it in the dread of torture or upon promise of life. The Whigs* make a national Jacobitish business of it, and it will be trumped up at all the elections."†

A rumour may be traced in the correspondence of the period, that the English government would blockade the Scottish coast to cut off communication with France, should it be necessary to use coercive measures towards Scotland. In the minutes of the privy council there is evidence of the effect of this rumour on both sides. On the 12th of March there is an investigation on the "insolence" of Captain Howe, commander of an English man-of-war, who had dared to search vessels in the Scottish waters. He was required to appear before the council and answer for his conduct, but he haughtily refused. A subsequent minute, however, bears testimony to his "being since better informed, and come to a just sense of his mistake;" when he promises caution for the future, and throws the

* Expressed in cypher by the figure 6.

† Jerviswood Correspondence, printed for the Bannatyne Club, p. 76.

blame, according to established practice, on an inferior officer, who had exceeded his instructions. The submission of this officer was an indication that the English government deemed it wiser to soothe than to threaten. The faintest affront to Scotland would have produced immediate war, with such miserable consequences in the indefinite hostility of two nations on the eve of a cordial union, as must have alarmed conscientious statesmen.

Still it was believed that Scotland was about to put English citizens to death, and it was seen with indignation that the English government did nothing. It was supposed that her majesty would at the last extend to the convicts the beneficent prerogative of pardon; but she required to exercise it through the Scottish privy council, and it was questioned whether they would sanction it, or dared to do so were they inclined. It is worthy of notice that the affidavits which we have mentioned tending to the exculpation of the accused were sent officially by her majesty to the privy council. One of their body mentions that the council refused at first to receive them, as they were not technically authenticated; and then, when the originals came, treated them as irrelevant.* On the 25th of March a letter was read from the Duke of Argyle, intimating the

* Jerviswood Correspondence, p. 78.

queen's desire that the execution should be suspended till her majesty's pleasure was known; but the council declined to act on it, holding it not to be in the proper form for the exercise of the royal prerogative. In their answer, the council state that they are "most tender of your majesty's prerogative in matters of this nature." They state that everything had proceeded according to law and form. They mention the confessions, which they say leave no place for doubt that "the said piracy, robbery, and murder, was committed upon Captain Drummond, and his ship sent out by the African company of this kingdom." They beg that her majesty may be induced to take no steps in the matter, save as she may be advised by her faithful council in Scotland; and state that they feared the step she had already taken had prevented the other convicts from confessing. They state that they have granted no reprieve except to those who had confessed, and assure her majesty "that this affair appears to us to be of the highest consequence for your majesty's interest and service, and the necessary satisfaction of all your people."*

Receiving on the day before that fixed for the execution a peremptory command from her majesty

* Minutes of Privy Council (28th March), General Register House.

to grant a reprieve until further inquiry, they complied, by changing the day of execution from the 4th to the 11th of April. The council address her majesty at length; they "entreat and obtest" that she will grant no further reprieves or remissions; giving her an account of the confession of Bruckley, and saying "it is the great concern of your majesty's service, and the earnest expectation of all your people, not otherwise to be satisfied, that the public justice of the nation be allowed to proceed without any further stop."

On the day before the expiry of the reprieve—the 10th of April—the matter again came before the council, as it was necessary to decide whether the law should have its course, or the queen's wishes should be carried out by a further postponement of the execution, until the inquiry contemplated by her advisers had been completed. It was a nervous deliberation. The excitement of the people was deep and fierce, and—an ominous phenomenon, always indicative in Scotland of the nation being stirred from its heart,—people flocked to Edinburgh from distant parts of the country, as they did thirty years afterwards to the execution of Porteous. The council, even as its proceedings appear on its own minutes, showed itself incompetent to deal with such a crisis. The queen and England were on one

side, and the mob on the other, and it would take no courageous stand. Three voted for a further reprieve—three voted against it. The others who were present would not vote. In this inequality it lay with the chancellor to decide the question by his casting vote. He declined exercising this offensive privilege; since there were others present who might give the votes which rendered it unnecessary, but would not. He said he was in favour of the reprieve, and was prepared to sign it, if those who had not voted would join him; but they would not. Thus nothing was resolved on; but the mere neutrality was fatal, for the previous decision of the council, which appointed the convicts to be executed next day, remained unaltered.

On the 11th, the great central thoroughfare of Edinburgh — the High-street — was filled with a menacing mob—national, rather than local. It was clear to every one who walked abroad that day that there would be violence and slaughter ere night; how much, or in what quarter, were the chief questions. The privy council assembled in their chambers beneath the Parliament House, and the mob swarmed in the space in front and upwards to the ditch of the castle, in which, for better security, the prisoners were kept. It was known that "a flying post"—one of those who had so frequently

arrived of late—had come from the court in London, and the mob were excited to the point of outbreak by the belief that it brought a pardon or reprieve to the prisoners. The communication from her majesty alluded calmly and almost sadly to the reasons which had been given for a belief that Drummond and his crew were still alive. It contained some further documents supposed to bear on the point—affidavits as to vessels which had brought the latest news from India, yet did not mention any piracy corresponding to that of which Green had been found guilty,—and the like. The contents of the despatch showed how anxious the queen's advisers in England were to avert the catastrophe, were it possible. In the end, however, she left the question in the hands of the council, recommending it to their "calmness and consideration." It was decided that Green himself, Madder the mate, and Simpson the gunner, should be executed; the others were reprieved, and, subsequently, were quietly released.

The mob outside, from whom violence was every moment expected,—who, indeed, had already began to make themselves heard against the outer door of the council chamber, learned with savage joy that three victims were to be executed, and had been despatched to Leith. A detachment of the crowd hurrying in that direction, relieved the anxious

councillors. The chancellor thought he might safely go home in his coach. As he entered it he was cheered, but somehow his leaving the council created suspicion in the mob, and they made a rush on his vehicle, from which he narrowly escaped alive, finding refuge in Milne's-court, a *cul-de-sac*, where his followers defended him until the crowd, satisfied that the original victims were to be sacrificed, followed their fellows to a more inviting spectacle.

This account of the state of Edinburgh is abundantly supported by the correspondence of the time. Of the execution, as it took place on the sands of Leith, we have never seen any account, save from the most suspicious of sources—the authors of partisan pamphlets still fiercely denouncing the victims. Their wrath was excited by a species of reaction, caused by the circulation of Green's dying declaration, in which evidently, with the aid of skilful hands—it betrays some Scottish law technicalities—he solemnly, and with great pathos, protested his innocence of the crime for which he suffered. In one of these denunciatory pamphlets it is stated that Green trusted to the last that he would be pardoned, and when he was taken down to execution deemed it a mere matter of form. "When he was upon the ladder," says the writer, "he turned

off the cloth off his face two several times—no doubt in expectation of some reprieve—and after his being half off the ladder he grasped with hand and foot to recover himself back again, till Madder's stern frown (against which the other was not proof) frightened him at last in a surprising and unwilling compliance with death." When the tragedy was completed, and, from many points of hilly Edinburgh, the bodies of the victims might be seen swinging on the sands of Leith, the national vengeance was more than satiated, and many of those who had been foremost in the strife were afraid to think what they had done.

There was one Scotsman, at least, a man of sterling patriotism, who viewed the whole proceedings with deep disgust and grief. Duncan Forbes afterwards stated in the British parliament his belief that Green suffered for no other crime than that of being an Englishman, at a period of strong national animosity; and that he had, as a testimony of his feelings, borne the executed convict's head to the grave. On this occasion he said, that "in a few months after, letters came from the captain, for whose murder, and from the very ship for whose capture the unfortunate person suffered, informing their friends that they were all safe." We are not aware of any other allusion to such letters, and

Forbes merely said that they bore date after the time when the piracy by Green was maintained to have been committed. He did not refer to the subsequent fate of Drummond and his crew, but on this point there is literary evidence of a very curious and romantic character.

In the affidavits already alluded to, it is stated that the vessel, the *Speedy Return*, of which Captain Stewart was master, and Captain Drummond supercargo, sailed from Britain in May, 1701, and after touching at various places, reached Madagascar. While Drummond and some others were there on shore, a band of pirates were said to have seized the vessel, and conveyed her to Rajapore, where she was burned. If this were true, a piracy had occurred, but it was far distant from the spot where Green was alleged to have seized the vessel. In the year 1729 there was published a curious volume, rivalling Robinson Crusoe in interest, called "Madagascar, or Robert Drury's Journal during Fifteen Years' Captivity in that Island." He states that he was but a youth of fourteen when he was shipwrecked, with the rest of the crew of the ship *Degrave*, on the coast of Madagascar. There he found "Captain Drummond, a Scotchman," who, he says, was left ashore on his vessel being taken by pirates, and was accompanied by a Captain Stewart. Drummond appears several

times among Drury's adventures, ever in a resolute, adventurous, and fierce character. He had been induced, it seems, under fallacious hopes, to put himself in the hands of the king of the district, who, under the effect of toake, immediately boasted, as the interpreter told Drummond, that the gods had sent the white man to him, and they should not leave him while he lived. "As soon," says the narrative, "as Captain Drummond understood this, his colour rose, and looking as sternly as the king, he replied, 'Let him know that if I could have suspected this beforehand, he should never have seen my face alive; I would have sent some of their black souls to hell. It is not their gods—it is nothing but fortune and chance has put me into his power, and by fortune I may be delivered from him.'" Instead of resenting this, "the king, seeing Captain Drummond go away in a passion, to appease him, sent one of his generals with an ox for us to kill, and desired the captain to make himself easy; we should be well provided for; if we could eat an ox every day, we should have it."

Nor when Drummond, in attempting to escape, shot one of the king's attendants, did the cunning savage betray wrath. In fact, he had made up his mind to make the gallant Scotsman's prowess a terror to his enemies; and made a proposal that the white

men, whom disasters at sea had thrown on his territories, should enter his service, Drummond taking the command of his armies, and the others being dispersed in different bodies. The white men were allowed to hold a meeting to deliberate on their answer. Then Drummond proposed a project, as original as it was bold; to seize the king, his sons, and his wives, and forming themselves in a body, protected by the presence of their prisoners from attack by missiles, fight their way across the island to Dauphine—the old deserted French settlement—where European vessels sometimes touched. The first part of the project was executed with entire success in the king's capital, and in the middle of a vast native force. The captors and their captives started on their strange journey, the dusky hordes of native troops hovering, almost paralysed by astonishment, in the rear of the little phalanx, and uttering wild lamentations. For four days, the journey was pursued under intense hardships and difficulties. Then the spirit of many of the white men seems to have been broken; for, contrary to Drummond's earnest exhortations, they bought relief and aid, with promises of peace, from their pursuers, by releasing their prisoners one by one. The king himself was the last released, under ample assurances that the little band

might proceed unmolested. In the night, Drummond disappeared along with Stewart and a person who, in the narrative, was named Bembo. It was not mere selfish flight—they returned immediately with a force from a neighbouring hostile tribe: but it was only to find the mutilated corpses of their comrades, who, all but the boy Drury, were slaughtered. Drummond, however, never left the island. He was for some years a renowned warrior under the chief, in whose territories he found refuge; and a terror to the tribe who had perfidiously slain his weaker brethren. When, fifteen years afterwards, Drury found his way to the other side of the island, he made inquiry about the fugitives of a man named Dove. "By him," he says, "I understood that Mr. Bembo got to England, but Captain Drummond never got off the island, he being killed, though the particular manner and occasion he could not inform me. But they told me one remarkable piece of news, for the truth of which I must refer my readers to further inquiry. They said that this Captain Drummond was the very same man for whose murder and his crews', one Captain Green, commander of an East India ship, was hanged in Scotland."* If we suppose Drury's work to be an attempt to pass a fiction

* Madagascar, p. 436.

as a true narrative, such a series of incidents, connecting Drummond with the spot where two of his crew asserted that he had been left, is precisely what an ingenious forger would dovetail into his scheme. Though the marvellous character of Drury's narrative, however, did subject it for a time to suspicion, it obtained, on examination, a character for veracity; and it is stated in the "Bibliothèque Universelle des Voyages," that subsequent inquirers have found his statements of the geography, the natural history, the manners of the people, and the conspicuous men of the time, remarkably accurate. But, besides this general testimony, there remains a minute and curious piece of incidental evidence connecting itself with the person named *Bembo*. In the "Gentleman's Magazine" for 1769,* there is an account of William *Benbow*, a son of the gallant admiral, whose last conflict had been at once a boast and a scandal to his countrymen, in the gallantry of the commander and the baseness of his officers. The author of that notice regrets that a memoir, written by William Benbow, was accidentally consumed, and proceeds to say: "The most curious and interesting part of it was that in which he gave an account of the crew of the *Degrave* —East Indiaman—seizing after their shipwreck a

* P. 171.

black king, his queen, and son in Madagascar, and marching with them over part of the island, and of his escaping from his companion to port Dauphine." And then, referring to Drury's work, he says: "Mr. Benbow's narrative is a strange confirmation of the truth of this journal, with which, so far as it went, it exactly tallied."

THE

BURNING OF FRENDRAUGHT.

A LONG conflict between two great houses in the North reached its climax in a tragedy so strange and horrible, that it became marked and renowned among the thousands of feudal outrages which fill the history of the period. Though common fame stamped it as an act of feudal vengeance, its secret history was never entirely explained. Investigations which were apparently, at least, judicial, and which professed very laboriously and impartially to strive after the truth, left the matter doubtful; and the most prejudiced historians could never say that their dark suspicions were entirely proved. With pretty abundant materials, it is impossible, even at the present day, entirely to clear up the mystery; but we can see by what machinations inquiry was baffled, and we can draw the natural inference. We

can see who holds the curtain before it, though we may not see who is acting the tragedy.

Before the great families of Scotland lost their power, the Gordons ruled it from the northern slope of the Grampians, through Aberdeenshire to the Murray Firth. In the seventeenth century, a rival family—that of the Crichtons—which had risen in formidable emulation in the same district, bid fair to overwhelm and supersede the old power of the Gordons. But in the events we are going to relate, they sunk in the contest, and disappeared from the territorial aristocracy of Scotland, leaving nothing behind them in the northern part of the country but the remembrance of their power and tyranny.

In the southern shires, however, where they obtained their earliest position, they took a place in history. The common mistake of historians to suppose that the history of the court is that of the nation, makes those branches of a family who lived near Edinburgh conspicuous political personages; while others, who had semi-regal powers at a fortunate distance from Holyrood House, are as obscure in history as fox-hunting squires. In the ordinary sources of information little is said about the Crichtons of the North, but the portion of the family who settled near Edinburgh occupy a considerable space in the annals of the earlier Jameses.

In the middle of the fifteenth century the family had a struggle for supremacy with the Douglases in the South, as they afterwards had with the Gordons in the North. They seem never to have been very scrupulous of the means by which they obtained their ambitious ends; and among a series of violent, not to say criminal acts, the reader of history will readily remember the slaughter of the young Douglases in Edinburgh Castle, when a black bull's head was presented to them, as a token that the hospitable board to which they were invited was converted into their place of execution.

Of this southern branch of the Crichtons, however, more pleasing recollections are preserved in the beautiful remains of their palace stronghold, standing on a wild moor, at the head of the Scottish Tyne; but covered with those rich oriental-looking decorations which justify Scott's luxuriant, yet accurate, description of them in "Marmion," commencing,

> "Nor wholly yet hath time defaced
> Thy lordly gallery fair,
> Nor yet the stony cord unbraced,
> Whose twisted knots with roses laced,
> Adorn thy ruined stair."

But let us look northward, where, as the southern branch of the family who had endeavoured to rise by court intrigue and influence were gradually declining, their cousins were adding acre unto acre,

and effectually but quietly acquiring great signorial powers. They founded houses in the shires of Perth and Aberdeen, continuing in the old Scottish fashion to support each other in their feuds. Thus, in 1599, we find that Sir Robert Crichton of Cluny, charged with the slaughter of William Meldrum of Montcoffer, gets his kinsman, John Crichton of Invernytie, in Aberdeenshire, to be his security; and his trial is postponed, because it is understood that he is to appear in court accompanied by so large a band of followers, that his majesty thinks it necessary to adjourn the proceedings, lest "great inconvenience may ensue, to the disquieting of our peaceable subjects and present estate."* There is a temptation to notice this small incident, in the circumstance that the marvel of heroism and rhetoric —the Admirable Crichton—was a Crichton of Cluny, and appears to have been the brother of this Sir Robert.

The principal residence of the Crichtons in Aberdeenshire was the fortalice of Frendraught, the mouldering remains of which, just rising above the ground, amid some venerable trees, are looked on with mysterious awe, as if they were yet some day to reveal the dread secret of their

* Pitcairn's Criminal Trials, ii., 77.

transmutation in one night from a fair hall to a black heap of ruins. The traditions of the peasantry always associate the extinct race of the Crichtons with a career of oppression and violence, and archæological vestiges of a far earlier period are generally assigned, after the usual custom of tradition, to some real or imagined event in their evil history. Thus a topographical writer in a periodical of the year 1761, says: "About a quarter of a mile west of Frendraught, on the roadside at Tarvis burn, is to be seen an old cairn or heap of stone, the tradition about which is, that at this place the last Dunbar of Frendraught was murdered in regard he refused to consent to his daughter's marriage with Crichton, and which was perpetrated by some of his followers, after which he married the lady and took possession of the estate. A mile south-east of Frendraught, on the roadside towards Glen Mellen, is Murray's cairn, at which place Murray of Cowbardy was murdered by the Crichtons upon some slight quarrel. Half a mile north from Frendraught, on the top of the Riach hill, stood the gibbet, upon which many suffered, as may be seen by the remains of their graves; and a little below the bridge of Forgue are to be seen the graves of a gang of gipsies who suffered death by drowning.

The lords of Frendraught were severe justiciaries within their own regality. Many other accounts of their severity might be here added."*

The great rivals and enemies of the rising house of Crichton were, of course, the Gordons. With the one or the other every person was required to enrol himself in clientage, and woe to him who should attempt to live independent of both. In that day it was the practice for those who did not belong to some considerable family in alliance with the dominant house, to take its name. To be without a chief involved a kind of disrepute; and those who had no distinct personal position of their own would find it necessary to become a Gordon or a Crichton, as prudence or inclination might point out. It was a not unfrequent practice to come under written obligation to take the surname of some great house. Thus, we have seen of so late a date as 1711, a bond by which John and James Macgregor say we "bind and oblige us, our heirs and successors, and all that ever shall come of us and our families whatsomever, to call ourselves and to be Gordons, still attending and depending on the noble family of Huntly, and that both in word and write in all

* Edinburgh Magazine, 1761. Reprinted in Antiquities of the Shires of Aberdeen and Banff, ii., 220.

transmutation in one night from a fair hall to a black heap of ruins. The traditions of the peasantry always associate the extinct race of the Crichtons with a career of oppression and violence, and archæological vestiges of a far earlier period are generally assigned, after the usual custom of tradition, to some real or imagined event in their evil history. Thus a topographical writer in a periodical of the year 1761, says: "About a quarter of a mile west of Frendraught, on the roadside at Tarvis burn, is to be seen an old cairn or heap of stone, the tradition about which is, that at this place the last Dunbar of Frendraught was murdered in regard he refused to consent to his daughter's marriage with Crichton, and which was perpetrated by some of his followers, after which he married the lady and took possession of the estate. A mile south-east of Frendraught, on the roadside towards Glen Mellen, is Murray's cairn, at which place Murray of Cowbardy was murdered by the Crichtons upon some slight quarrel. Half a mile north from Frendraught, on the top of the Riach hill, stood the gibbet, upon which many suffered, as may be seen by the remains of their graves; and a little below the bridge of Forgue are to be seen the graves of a gang of gipsies who suffered death by drowning.

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* Edinburgh Magazine, 1761. Reprinted in Antiquities of the Shires of Aberdeen and Banff, ii., 390.

time coming: and we further oblige us that we never shall subscribe to or sign any papers but Gordon as aforesaid."

Gordon of Rothiemay having estates which, being contiguous to those of Crichton, had to bear all the evils of a frontier territory, there were conflicts in the law courts, followed out by hand-to-hand battles with broadsword and matchlock. One of these engagements took place in 1630, and was fought with great obstinacy. Rothiemay was mortally wounded, and only survived for a few days. The relations of the slain man made arrangements for taking signal vengeance; and in addition to their own followers, they obtained the aid of a kind of mercenary soldiery, ready at that time for any service in any part of the world—the Highland freebooters, of whom 200 well armed, were encamped round the house of Rothiemay, under two renowned robber chieftains named Grant, against whom the law had in vain been fulminating for years together. The head of the Gordons, however, the Marquis of Huntly, and his relation, Sir Robert Gordon, used all their efforts to arrest the threatened "harrying," as it was termed, of the territory of the Crichtons. They were unusually successful in producing at least an apparent reconciliation,

"and so all parties having shaken hands in the orchard of Strathbogie, they were heartily reconciled."*

The Crichtons agreed to pay a sum of 50,000 merks to Rothiemay's widow "in composition of the slaughter." A follower or client of Crichton, called John Meldrum, of Redhill, had been wounded in the fray with Rothiemay. He expected some reward for his services which he did not obtain, and took umbrage at his chief. For a gentleman of landed property his method of seeking redress would in the present day be considered somewhat strange. "Whereupon, John Meldrum cometh secretly, under silence of the night, to the park of Frendraught, and conveyeth away two of Frendraught's best horses. Frendraught taketh this lightly, and calleth John Meldrum before the justice for theft. He turneth rebel, and doth not appear."† He was sheltered in the strong fortalice of his brother-in-law, Leslie of Pitcaple. Frendraught and his relation, Crichton of Conland, met by accident the son of Leslie of Pitcaple, and high words passed about the shelter-

* Gordon's Genealogical History of the Earldom of Sutherland, p. 419.

† Ibid.

ing of Meldrum. In the middle of the dispute, Crichton of Conland drew forth a pistol, and shot young Leslie. Thus out of a family who had been their warm friends, the Crichtons made bitter feudal enemies. Frendraught, alarmed apparently at his position, appeared desirous to conciliate the Gordons, and asked the Marquis of Huntly to use his influence to heal the feud with the Leslies. But young Leslie was lying in his father's hall, between life and death, and a reconciliation under such circumstances was impossible. Frendraught had urged his suit when on a visit to Huntly's castle, and the chivalrous chief of the Gordons was desirous that he should, at all events, be safe in returning from the Castle of Strathbogie to his own home; a very unlikely consummation, since an armed band of the Leslies were on the watch to waylay him. Huntly, after having entertained him for a few days, sent his son, Lord Aboyne, and the young Laird of Rothiemay as his escorts.

When they reached Frendraught, they were desired to remain there and partake of its hospitalities. The Lady Frendraught was especially anxious that they should seal the abandonment of the old feud between the Gordons and the Crichtons in conviviality. In the words of an old ballad:

"When steeds were saddled, and well bridled,
And ready for to ride;
Then out came she and false Frendraught,
Inviting them to bide.

"Said, 'Stay this night until we sup,
The morn until we dine;
'Twill be a token of good 'greement,
'Twixt your good lord and mine.'"

They remained, and thus Frendraught had under his roof the son of his great feudal enemy, Huntly, and the son of the man for whose slaughter he had to make pecuniary compensation. Part of the Castle of Frendraught was the grim, windowless, old square tower, so common in Scotland. Each floor had but one chamber, the thick walls occupying the greater part of the space. The lowest chamber was vaulted, the others were covered with wood. The owners of such edifices were sometimes jealous of permanent stairs, and in the centre of the vault at Frendraught there was a round hole for reaching the floor above by a ladder. In the room thus entered slept Aboyne, with his follower Robert Gordon, and his page "English Will." In the floor above slept Rothiemay with some of his followers, and in the third another band of followers; it was observed that the whole of the party who had escorted Frendraught from Strathbogie

were lodged in this tower. After a convivial evening they slept soundly. What afterwards happened, cannot be better told than in the simple words of a contemporary annalist:

"Thus all being at rest, about midnight this dolorous tour took fire in so suddent and furious a manner, yea, in one clap, that this noble viscount, the Laird of Rothiemay, English Will, Colin Ivat, another of Aboyne's servitours, and other twa, being six in number, were cruelly brunt and tormented to the death, but help or relief, the Laird of Frendraught, his lady and whole household, looking on without moving or stirring to deliver them fra the fury of this fearful fire as was reported.

"Robert Gordon, called Sutherland Robert, being in the viscount's chamber escaped this fire with his life. George Chalmer, and Captain Rollok being in the third room, escaped also this fire, and, as was said, Aboyne might have saved himself also if he had gone out of doors, quhilk he would not do, but sudaintly ran up-stairs to Rothiemay's chamber and wakened him to rise; and as he is wakening him the timber passage and lofting of the passage hastily takes fire, so that none of them could come down stairs again. So they turned to ane window looking to the close, where they piteously cried help, help,

many times, for God's cause. The laird and the lady with their servants, all seeing and hearing this woful crying, but made no help nor maner of helping, which they perceiving, they cried often times mercy at God's hands for their sins, syne claspit in each other's armes and cheerfully suffered this cruel martyrdom. Thus died this noble viscount of singular expectation, Rothiemay, a brave youth, and the rest, by this doleful fire never enough to be deplored, to the great sorrow and grief of their kin, friends, parents, and hail country people, especially the noble marquis, who for his good-will got this reward."*

This tragedy, round which many of the traditions of the north centre, has been told in rhyme as well as prose, and as we shall see in more than one language. "The fire of Frendraught" is well known to the students of Scottish ballad literature. Often has the writer of this notice heard it in early childhood sung or chanted near the spot, and not sensibly varying in the various mouths which gave utterance to it; the evidently genuine version of it in Motherwell's minstrelsy gives it to the reader exactly as the peasant would repeat it to the curious listener. This embodiment of the deep popular

* Spalding's Memorialls of the Trubles. Spalding Club edition, i., 16.

indignation of the time has already been noticed, and a further quotation from it will readily dovetail into this part of the narrative:

"They had not long cast off their cloaths,
And were but now asleep,
When the weary smoke began to rise,
Likewise the scorching heat.

"'O waken, waken, Rothiemay,
O waken, brother dear,
And turn you to our Saviour;
There is strong treason here.'

"When they were dressed in their cloaths,
And ready for to boun,
The doors and windows was all secured—
The roof-tree burning down.

"He did him to the weir window
As fast as he could gang——
Says—wae to the hands put in the stanchecns,
For out we'll never win.

"When he stood at the weir window,
Most doleful to be seen,
He did espy her Lady Frendraught,
Who stood upon the green.

"Cried, 'Mercy—mercy—Lady Frendraught;
Will ye not sink with sin?
For first your husband killed my father,
And then you burn his son.'

"O then out-spoke her Lady Frendraught,
And loudly did she cry:
'It were great pity for good Lord John,
But none for Rothiemay.
But the keys are casten in the deep draw-well;*
Ye cannot get away.'"

* The editor of another collection of ballads, Mr. Finlay, in reference to this verse, of which he had but an imperfect copy,

The lords of Frendraught were severe justiciaries within their own regality. Many other accounts of their severity might be here added."*

The great rivals and enemies of the rising house of Crichton were, of course, the Gordons. With the one or the other every person was required to enrol himself in clientage, and woe to him who should attempt to live independent of both. In that day it was the practice for those who did not belong to some considerable family in alliance with the dominant house, to take its name. To be without a chief involved a kind of disrepute; and those who had no distinct personal position of their own would find it necessary to become a Gordon or Crichton, as prudence or inclination might point out. It was a not unfrequent practice to come under written obligation to take the surname of some great house. Thus, we have seen of so late a date as 1711, a bond by which John and James Macgregor say we "bind and oblige us, our heirs and successors, and all that ever shall come of us and our families whatsomever, to call ourselves and to be Gordons, still attending and depending on the noble family of Huntly, and that both in word and write in all

* Edinburgh Magazine, 1761. Reprinted in Antiquities of the Shires of Aberdeen and Banff, ii., 290.

transmutation in one night from a fair hall to a black heap of ruins. The traditions of the peasantry always associate the extinct race of the Crichtons with a career of oppression and violence, and archæological vestiges of a far earlier period are generally assigned, after the usual custom of tradition, to some real or imagined event in their evil history. Thus a topographical writer in a periodical of the year 1761, says: "About a quarter of a mile west of Frendraught, on the roadside at Tarvis burn, is to be seen an old cairn or heap of stone, the tradition about which is, that at this place the last Dunbar of Frendraught was murdered in regard he refused to consent to his daughter's marriage with Crichton, and which was perpetrated by some of his followers, after which he married the lady and took possession of the estate. A mile south-east of Frendraught, on the roadside towards Glen Mellen, is Murray's cairn, at which place Murray of Cowbardy was murdered by the Crichtons upon some slight quarrel. Half a mile north from Frendraught, on the top of the Riach hill, stood the gibbet, upon which many suffered, as may be seen by the remains of their graves; and a little below the bridge of Forgue are to be seen the graves of a gang of gipsies who suffered death by drowning.

show the vault in which they are traditionally said to lie. These pious duties being performed, the Gordons of course turned their thoughts to vengeance. Spalding, the chronicler, says it was resolved that to propitiate them, on the day after the tragedy, the Lady of Frendraught, in a white plaid or wimple, "and riding on ane small nag, having ane boy leading her horse without any more in her company," went weeping to the gates of Strathbogie beseeching an audience of the Marquis of Huntly, but was sternly repulsed, "and returned back to her own house the same gate she came—comfortless." Some polemical writers have endeavoured to prove that the boy who so accompanied her was her confidential adviser—a Jesuit in disguise. There is curious evidence that the lady kept such a person in her employment, though her husband was a professedly zealous Presbyterian, whom the Catholics charged with a religious enmity to the house of Gordon. A certain Gilbert Blackhal, who had been a secret and dexterous agent of the Jesuits in the most dangerous times and places, left a journal of his adventures, in which he says: "My lady of Frendraught did send to me praying me to come to her to be her ordinary, for the *frère* whom she had before was departed from this life. I refused absolutely to see her, because she was suspected to be guilty of

the death of my Lord of Aboyne, who seven years ago was burned in the castle of Frendraught."*

While the lady was on her penitential mission grave council was held in the Castle of Strathbogie, whether Lord Errol and other distant partisans of the Gordons had hastened. We are told that the assembly, "after serious consultation, concluded this fearful fire could not come by chance, sloth, or accident, but that it was plotted and devised of set purpose; whereof Frendraught, his lady, his friends, or servitors, one or other was upon the knowledge." Having come to this conclusion, it was held that the criminality of the parties was so open to proof, that private vengeance or feudal war would be unnecessary—it was better to seek redress at the hands of the law. Thus the belief entertained by the Gordons, and generally participated in, was that the demon of family hate had driven Frendraught to the murder of the confiding guests, though it could only be accomplished by the destruction of his own fortalice.

Frendraught went immediately to Perth, where the chancellor was residing, and threw himself on the protection of that powerful officer, passing with him to Edinburgh, where he declared that he was

* A Briefe Narration of the Services done to three Noble Ladyes, by Gilbert Blackhal, p. 58.

prepared to abide all investigation, maintaining that the act "was committed by some devilish and odious plotters against him, his life, and estate," and begging in the mean time that he might receive protection in his person and property from the fury of his enemies. Thereupon commenced a series of tedious and perplexing legal proceedings, wherein with bustling pomposity the most untiring efforts appear to have been made to discover the criminal. In the midst of a general confusion of commissions, dittays, questions with the boots, deliverances, "summonds, exceptions, replies, duplies, indices, and presumptions produced and used therewith," one figure ever appears in the midst of the confusion calm and undisturbed—this is Frendraught himself, who resides with his friend the chancellor, attends the meetings of the privy council occasionally, and is never troubled or questioned, while the pursuit after minor personages becomes ever hotter and fiercer. The privy council seemed for some months to have no other business but this inquiry. They commenced it on truly inductive principles. The Earl Marshal, the Bishops of Aberdeen and Murray, with some others, were appointed as a committee of the privy council "to sight and view the house of Frendraught, and to consider the frame and structure thereof, and how and by what means the fire was raised within the

same, and if the fire was accidental or done of set purpose by the hand of man, and if there be any possibility or probability that the fire could have been raised by any persons without the house." The committee were appointed on the 1st of February, 1631. On the 4th of April they made a report on the spot distinct enough so far as it goes: "We find by all likelyhood that the fire whereby the house was burnt was first raised in a vault, wherein we find evidences of fire in three sundry parts; one at the farthest end thereof, another towards the mids, and the third in that part which is hard by the hole that is under the bed which was in the chamber above. Your good lordships will excuse us if we determine not concerning the fire, whether it was accidental or of set purpose by the hand of man, only this much it seemeth probable unto us, after consideration of the forme of the house and other circumstances, that no hand without could have raised the fire without aid from within."

It was necessary to let the virtuous fury of the law loose on some obscure victims. A young woman, named Margaret Wood, was accused of the crime, on what ground it is hard to say. The account of her treatment is sickening. After she was subjected to the torture of the boots, she would yet

make no admission justifying further proceedings against her for the murder. She seems, indeed, to have provoked the fury of her judges by directly accusing Frendraught, in whose service she was; for, according to the record of the Court of Justiciary, she "did compear before his majesty's council, and so far as in her lay, did lay the odious and treasonable crime of burning the house of Frendraught *upon a baron and gentleman of good quality*, and thereafter, in her several depositions made before the said lords, did openly and manifestly perjure herself, blaspheme the name of Almighty God, and abuse, with her false lies and calumnies, the said lords of his majesty's council." And therefore the poor woman, because, under the effect of torture, she so far forgot herself as to point to the powerful man whom all believed to be guilty, was sentenced to be "scourged through the burgh of Edinburgh, and banished the kingdom." John Tosh, a follower of Frendraught, was next accused and brought to trial. The dettay, or indictment, sets forth that Tosh, "upon what devilish instigation altogether unknown," in the dead hour of the night, when all the people and servants of the place were at rest, "passed secretly to ane chamber where one Thomas Joss, ane of his fellow-servants within the same place, and ane keeper of the key

of the vaults, whilk was directly under the tower wherein the said Lord Viscount of Melgum [Aboyne], the said Laird Rothiemay and their company lay, and secretly staw (stole) and brought away with him the key out of the said Thomas Joss, his breeks and pouches thereof, the said Thomas being in bed and fast a' sleep for the time; and thereafter came to the said vault or laigh seller, beneath the said tower; and having opened the door thereof, and drawn in and conveyed thereintil certain fagots, timber, powder, flax, and other combustible matter provided and prepared by him; he, the said John Tosh, out of ane devilish and desperate humour, fired the same, by the firing and kindling whereof, the said loftings above the said vault, especially the chambers in the said tower wherein the said lord viscount, the Laird of Rothiemay, and their servants and followers, to the number of six persons, Christian souls, were most pitifully burned to dead."

To urge him to confess this preposterous story, he was put "to the torture of the boots," and next "to the torture of the pilniwinkies;" yet, as his counsel expressed it, he "in all his sufferings of baith the said tortures, constantly and upon his great oath, declared that he was no ways the burner of the house of Frendraught, acter, nor accessorie

thereto, or that he knew anything anent the burning of the said house, nor who was the doer thereof." It appears that there was some reason for charging him with possessing for a short time, on that memorable night, the key of the vault. He went thither, it seems, to get a drink of water; and it was adduced against him, that one time he said it was for Domingo, the chief cook, and at another time for Buck, the under cook. He was asked about a "great kist," or chest which stood in the vault, supposed to have contained combustibles; but he could afford no revelations about it or anything. There was not a shadow of real evidence against him, though the crown counsel said poetically, that "all the particular indices being massed together, they may well be counted as stars to see the night with."

It was impossible to make out a case against Tosh; and, as a victim must be found, the next attack made was on Frendraught's enemy and ex-retainer, Meldrum. In the charge against him allusion is made to the abduction of the horses already mentioned—an offence aggravated by the insolent manner in which Meldrum rode about the country with them. It was laid down, that as he stood in dread of just punishment at the instance of Frendraught, he resolved to revenge himself by blowing

up the castle, through the aid of the Highland freebooters headed by John Grant, "ane notorious sorner, outlaw, thief, and rebel." It certainly was shown that he had expressed sufficient bitterness against Frendraught, and threatened that he would bring together as many Highlanders "as would sup him in brose." He frequently said an evil turn would overtake Frendraught, and according to some witnesses alluded to fire as the form it should take. Grant himself was caught and examined; he said that Meldrum held conversations with him, and that he was evidently "bent upon revenge, and had ane purpose to enter on blood;" but that he, Grant, had too many other affairs on hand to enter into his views. The only further specific evidence appears to have been the statement of an individual since executed, that on the fatal night he met several horsemen in a road leading to Frendraught, "among whom he knew John Meldrum, riding on ane mirk grey horse with ane millon cloak." When Tosh was charged with the crime, it was held that it must have been perpetrated by persons having access to the building. Meldrum and his abettors were on the other hand charged with executing it externally, "having brought with them ane large quantity of powder, pitch, brimstone, flax, and other combustible matter, provided

by them for the purpose, and put and conveyed the same in and through the slits and stones of the vault of the said great tower of Frendraught." The impossibility of his doing this without aid from within, was urged by his counsel; while it was ingeniously put that if he had an accomplice in the mansion, that accomplice must have known that the vengeance on that night would fall not on Frendraught, but on Meldrum's own friends. A sentence or two may be taken as a specimen of forensic pleading in Scotland at that period:

"Gif there was any slit therein (in the wall) it was very narrow, and the wall ten foot thick, or thereabout (now ye see good men of inquest how necessar it is that the assisers should have been countrymen who could have known thir things best), so that neither could a man without wield his hand well to cast, put, or shoot in combustible, or kindle the same where it fell; but some in the dark would have escaped the inputter and fallen by the way (the wall being ten feet thick), and would have come back by that same slit, whereof great vestiges would have been found even from without (whilk was not—neither can ye of the assize know, not being of the country). Then what possibility to wield ane spear through a slit ten foot thick, and so narrow, to make anything touch the hole of

the vault that is alleged to be under my Lord of Melgum (Aboyne) his bed, without direction within, and (that) is already cleared not to have been. Then the force of the powder and that other matter if it had fallen against the meal arks, it had broken if not burnt them; and if it had not come back to the slit (as likely it would, because it could not lie far from it, for the uneasiness of the inputting of the same as said is), at least going to the hole or O in the vault, it should have broken the ladder, and being redacted *in angustias*, that is to one great straigtness, it would have blown up some of the vault near the head or O with ane great noise, and my Lord Melgum to have been first slain before burnt; where only the constant report is, that there was ane great smoking before he did awake, both in his chamber, and the other where a boy was suffocate, and gave him liberty to put on his clothes, and by the will of God went up the stair when he ought to have come down." On the absence of direct evidence, he says: "Fand nane him to go out? Did not the doors or yets of the house geig and make a noise, or how was the yet of Pitcaple opened? Fand nane him to return? Did nane meet him? Did nane see him but a vacillant, variant, contradictory villain, what was scourged and burnt on the cheek for the same; and

thereafter being tane for ane other crime, was paneled and condemned. * * * Item, there were ane number of horse; unlike preparation for such a business. Also, he might well be refuted by your wisdoms, as that other by the Amphictions, who testified that he saw in the night Alcibiades, and kenned him casting down the statue of Mercurie at Athens. But to leave him in his darkness, I go on and speirs (ask). How runs the panel so quickly, ten or twelve miles, *etiam cum tot impedementis*, and burdens that he behoved to have, if the dittay be true? Went he on foot or horse? Wha held the horse? Whare, also, was the combustible matter coft? In what market, or booth, or fra whom gotten? Wha caried the fire? How did the combustible matter so wall or join with the fire; and if there was tinder buist, where, or how gotten? How had the panel all this leisure and time to set all thir things in order when he came to the slit? Was there no din nor crak heard—no dog to bark?".

Meldrum was found guilty, condemned, hanged, and quartered, the quarters being spiked on conspicuous places "in example of others to do the like," as Spalding quaintly says. The belief of the country, as handed down by tradition, was, that Frendraught had thus been able to strike another

enemy. It will be seen that no evidence against him was received—that it was considered an offence to accuse him. Popular fame charged him, however, with the murder; and in the narrative of Father Blackwell—not, however, to be much relied on, as he nourished a strong theological hatred of the Crichtons—it is asserted that Frendraught kindled the fire, and stood armed in the court-yard to slay his victims, should they escape. Frendraught appears to have endeavoured to propitiate the clergy, since in the parish church of Forgue there are communion cups and a paten of silver, with the inscription: "Giftet to God and his Kirk, by James Crichton, of Frendraught, 1633."* He appears, too, to have re-fitted the interior of the parish church, and to have carved many pious inscriptions on the pews. These propitiations were, perhaps, rendered the more necessary by the recusancy of his lady, who was born a Roman Catholic, and appears to have kept the renowned Presbytery of Strathbogie in continual turmoil. In the Index to "Extracts from the Presbytery-book of Strathbogie," printed by the Spalding Club, the head "Frendraught, the Lady of," commences thus: "To be dealt with; promises to hear the word; offers to go to the church to which her husband goes; out of

* Statistical Account of Scotland, xii., 202.

the country; gets liberty to attend at Forgue; is willing to hear the word in any kirk but Aberchirder; to be summoned for her avowed Papistry; required to subscribe the covenant; she promises to consider of it; subscribes it; promises to give up the detestable ways of Popery or Popish idolatry;" and so on. The chief complaint against her is for only occasional, instead of steady attendance at sermons; and her vindications are sometimes petulant and amusing. She seems, on the whole, to have shown a pertinacity and passive obstinacy which exhausted the restless energies of the inquisitorial presbytery, who, after declaring her to be "pertinax," appear in the end to have been obliged to content themselves with very general assurances of conformity, which they seem to have known that she did not follow. On one of the occasions in which her case is brought on, her husband applies to the presbytery to allow him a tutor of "good life and conversation," and given to "frequent exercises," for the instruction of his children; as if he desired to keep the minds of the reverend gentlemen fixed on something which might weigh against the lady's heterodoxy.

Frendraught, though he had with a high hand averted even the pretence of inquiry on the part of the government, did not go unpunished, whether

he was guilty or not. There was another power in Scotland in that day besides the law, which found him guilty and executed sentence on him. Avoided and detested by his neighbours, the whole swarm of mountain freebooters considered his broad acres their proper prey. Highland rievers seem to have travelled hundreds of miles for the special purpose of harrying the lordship of Frendraught. The privy council records are filled with eloquently distracted denunciations of them. Thus, on the 13th of November, 1634, certain charges against the Marquis of Huntly and others commence, "For as muckle as the lords of secret council are informed that great numbers of sorners and broken men in the Clan Gregor, Clan Lachlan, and other broken clans in Lochabar, Strathdon, Glencoe, Braemar, and other parts of the Highlands, as also divers of the name of Gordon, and their dependers and followers in the country, have this long time, and now lately, very grievously infested his majesty's loyal subjects in the north parts, especially the Laird of Frendraught and his tenants, by frequent slaughters, heirships, and barbarous cruelties committed upon them, and by ane late treasonable fire-raising within the said Laird of Frendraught his lands, whereby not only is all the gentleman's lands laid waste, his kail yards and bestial spoiled, slain, and mangled,

some of his servants slain and cruelly demeaned, but also the haill tenants of his lands have left his service, and himself, with the hazard of his life, has been forced to steal away under night, and have his refuge in his majesty's council." Another document calls on the sheriffs of the northern counties to raise the *posse comitatus*, and endeavour to arrest a set of people with unreadable Highland names, "on the suspicion that they are the authors and committers of the late disorders and insurrections in the north, and of the heirships, depredations, fire-raising, and other disorders upon the Laird of Frendraught, his tenants and servants, whose haill goods they have lifted, laid their lands waste, and hanged one of the poor tenants on the gallows of Strathbogie; and with ane high hand of rebellion they have resolved to make themselves masters of the said Laird of Frendraught his haill estate, and to possess themselves therein, and to keep the same by strength of arms in contempt and defiance of law and justice, being assisted in their disorders and rebellious courses by numbers of broken Highlandmen and others, with whom they go up and down the country ravaging and oppressing his majesty's good subjects, and especially poor ministers who have not power to oppose their violence, and that in so hostile and terrible ane man-

ner as the like has not been heard at any time heretofore."

These "limmers" and "sorners," who also sometimes receive on the present occasion the curious name of "light horsemen," were of course hanged in bunches when they could be caught. One of them—the renowned Gilderoy—has already come under our notice in the account of the legal conflicts with the Clan Gregor. His coadjutors, who were generally like himself members of "broken clans," enjoyed a grotesque variety of names—such as, John Malcolmie, Allaster McInneir, Ewin Macgregor, *alias* Macawish, John Dow Garr, Neil McInstalker, Ewin Neil McPhadric, Duncan Roy Darg, &c. The charges against these ruffians range from the most extensive to the smallest scale of plunder—from the pillage of houses and the murder of their inmates, to the kidnapping of stray poultry—in a ludicrous fashion. In fact, these gentry were so light-footed as well as light-fingered, that it was extremely difficult to get evidence of their feats; and therefore, any matter, however trifling, which could be proved, must not be lost sight of in the general reckoning. We have seen that Gilderoy was seised by Argyle, the hereditary enemy of the Macgregors, to whom thanks for this great service were recorded by the privy council. So weak an

executive as Scotland then had were glad of the aid even of inferior instruments, and they followed the policy of setting rogue against rogue. In the ravages of Frendraught, a certain Finlay McGrimm bore a part. He was attacked and seized by some Macgregors, probably not much more honest than himself, who brought his head to the table of the privy council. This august body "finds they have done good service therein, excusing them from all crime and offence that may be impute to them for *this* cause. Like as the said lords ordains the bailies of Edinburgh to affix the said Finlay McGrimm's head upon the netherbow port; and the said lords ordain John Earl of Traquair, his majesty's depute treasurer, to deliver to the party, bearer and in-bringer of McGrimm's head, the sum of a hundred merks, in satisfaction of his hazard and charge, and for encouragement of others *cheerfully to go on in the like service in time coming.*"

The country had adopted the opinion that the house of Frendraught were doomed, and it brought about the event by treating it as being so. The territory was wasted and depopulated, its owner was hated and avoided, and in little more than half a century after the tragedy the family ceased to exist. At court, however, Frendraught had at

first the successful side of the conflict. Huntly, who was charged with the responsibility of the outrages in the north, and who was suffering in spirit from the death of his gallant son, had to repair to court in his old age, and never returned to his castle and his followers. His latter days have been affectionately commemorated by the annalist, Spalding, with whose notice of his redeeming character, the account of the Frendraught tragedy may be concluded.*

"This mighty marquis was of ane great spirit, for in time of trouble he was of invincible-courage, and boldly bore down all his enemies triumphantly. He was never inclined to war or trouble himself, but by the pride and insolence of his kin was divers times driven in trouble, whilk he bore through valiantly. He loved not to be in the laws contending against any man, but loved rest and quietness with all his heart, and in time of peace he lived moderately and temperately in his dyet, and fully set to building and planting of all curious devices.

* It is curious that of the author of so interesting a book as the "Memorials of the Troubles in Scotland and in England," nothing should be discovered beyond the bare fact that he was town clerk of Aberdeen. The garrulity of his narrative makes it extremely valuable. He was an arrant gossip—but a gossip whose private scandal related to murders and feuds, and whose public news recorded the greatest of civil wars. The Spalding Club, named in honour of him, have just worthily printed an amply annotated edition of his Memorials.

A well set neighbour in his marches—disposed rather to give than to take a foot of ground wrongously. He was heard say he never drew sword in his own quarrel. In his youth a prodigal spender—in his old age more wise and worldly, yet never counted for cost in matters of honour. A great householder—a terror to his enemies, whom, with his prideful kin, he ever held under great fear, subjection, and obedience. In all his bargains just and efauld, and never hard for his true debt. He was mightily annoyed by the Kirk for his religion, and by others for his greatness, and had thereby much trouble. His master, King James, loved him dearly, and he was a good and loyal subject to him during the king's lifetime. But here at last in his latter days, by means of Frendraught, he is so persecuted by the laws (which he aye studied to hold in due reverence), that he is compelled to travel without pity so often to Edinburgh, and now ends his days out of his own house, without trial, of the woful fire of Frendraught—whilk doubtless was some help to his death also."*

* Memoriale, i., 73-4.

TRIALS FOR WITCHCRAFT.

THE study of the witchcraft trials in Scotland leaves behind it a frightful intelligence of what human nature may become. The impression made by these tough and sometimes drearily formal records is more dark and dreadful than anything imparted by fictitious writing. The difference is as great as all that lies between what has been and what might have been. True, these criminal records, the dreariest and most methodical of them, are full of fictions in the history attributed to the victims — full of fictions more revolting and improbable than we can find in imaginative literature, since the charges against sorcerers and witches are frequently the productions of low, uncultivated, and brutal minds; while the worst specimens of fictitious literature are illuminated by at least a faint light of civilisation and taste. But there is

one element in these trials which does not partake of the character of the fictitious—which is altogether too true; and this is the evil minds of the prosecutors. Evil minds which, if we look at the whole mass, are composed of heartless capriciousness—of envy, hatred, and malice—of fanatical fury, and of mere brute cruelty, passing the conception of those who socially have lived in civilisation, and whose minds, when straying beyond the social circle, have lived in literature. It might be a question which were the worse fate, to be doomed to a belief in witchcraft, or to live in a country where it is believed. Assuredly, no demons of the imagination can be much worse than the demons which superstition has made of poor human beings.

Perhaps other nations can afford as evil a history to those who rummage among their criminal records. There are many sources of intelligence little known beyond the country to which they belong. We have few such means of examining the darker side of life in ancient nations as criminal trials afford. We only know of their historical crimes, or the accusations on which the great orators were engaged. If an imperfect Christianity could leave such horrid scenes to be looked back upon from a more advanced civilisation, it is easy to believe that an abundance of horror must have been connected

with the influence of demon deities, whose fondest worshippers believed them to possess passions and propensities, human in their kind, but as much more intense than those of men as the capacity of the immortal is beyond that of the mortal. We know not all that the human heart is capable of; perhaps it is well that we should not, and that the vices of past ages should diffuse themselves into oblivion as the material bodies of those who indulged in them have been mingled with the dust of the earth. On this remark it may be asked—why then endeavour to resuscitate the contents of this little graveyard corner—the witchcraft trials of Scotland? The answer is, that there is no intention on the present occasion of endeavouring to give a picture of the grosser brutalities. It would not be tolerated in a work which the public in general are invited to peruse; and it would be difficult to adapt the written language of the present day to such an object. Few readers will probably desire more than a general glance at some of the more curious and fanciful characteristics of the witch belief in Scotland. Those who desire more, must go to the original sources of information.

And yet, vile as is the moral garbage thickening round the feet of one who wades through these sources of instruction, the self-sufficient selfishness

of our nature might, perhaps, find a satisfaction in it—the satisfaction that we live under the protecting shadow of the experimental philosophy, which will not permit the tribunals to hold the crime we are accused of to be aggravated by being unseen and unknown; by being incapable of discovery and proof, and by being totally inconsistent with the laws which are seen to govern the material world. If we were to take certain anarchists of science, whose motto appears to be *credo quia impossibile*, at their word, they would have these chaotic times back again. But, in truth, they would be as much frightened if they actually saw them, as a drawing-room republican at a besieged barricade. They disport themselves under the strong protection of advanced science. Inwardly, they know that the world will not retrograde; that the onward steps of science are sure; and that they are perfectly safe from the realisation of their own doctrines. Hence, they are sometimes amusingly bold and clamorous; and their easy off-hand dealing with the supernatural is like the talk about storms and shipwrecks by the "gentlemen of England, who live at home at ease." To enlighten them on the life they would lead in a world sent back into the chaos of their professed opinions, let them read a series of trials for witchcraft.

Our Scottish witch is a far more frightful being than her supernatural coadjutor on the south side of the Tweed. She sometimes seems to rise from the proper sphere of the witch, who is only the slave, into that of the sorcerer, who is master of the demon. The English witch is the very perfection of stupid vulgarity; and among the most wonderful things in the whole history of diablery is this, that men of dignity and position, if not of learning—that important country gentlemen, dignified clergy, judges, and privy councillors, should submit to the conviction that beings so contemptible and stupid could be objects of alarm to them, and be admitted to have some power or authority over their fate. One would have thought that the village hag, however humble her position and limited her views of life, would have had them widened in their destructiveness, when the prince of the power of the air selected them as the means of doing his work. But the old hag's fiendish machinations cannot go beyond the sphere of her early habits. She is a terrible enemy to pigs; sometimes inflicts convulsions on a turkey; possibly arises to the dignity of afflicting a cow with heavy sickness, or giving a horse the staggers. She can disturb the elements it is true, but they go no further in their wrath than the souring of the beer, or the destruc-

tion of the butter. She is an inveterate slattern, managing with an infinite variety of offensive operations to disturb the equanimity of the tidy, notable English housewife. Even Ben Jonson's stately blank verse cannot communicate dignity to her professional occupations:

"To make ewes cast their lambs—swine eat their farrow,
The housewives' tun not work—nor the milk churn,
Writhe children's wrists, and suck their breath in sleep,
Get vials of their blood—and when the sea
Casts up his slimy ooze, search for a weed
To open locks with, and to rivet charms
Planted about her in the wicked feat
Of all her mischiefs, which are manifest."

More picturesque were the spells of the Lady Fowlis, of the witches of Auldearn, and of that wild crew, who, after revelling with the devil in the church of North Berwick, ransacked the surrounding graves for necromantic charms, and then went to sea in sieves, with the foul fiend as signal-master to raise a storm for the destruction of the king as he came from Norway with his bride.

But if the works of darkness have thus afforded incidents more gloomily picturesque in our northern regions, neither the accusers nor the unhappy beings who arrogated to themselves, or were accused of supernatural powers, have any more merit in the picturesqueness of the adjuncts in which they move, than in creating the vast mountain-ranges, and

stormy winds of their country. With one or two exceptions, their ends are as base, and their means of accomplishing them as vulgar, as those of the destroyers of butter and enemies of pigs in the south; and we shall find that some of the Scottish charges are of as truly household and humble a character, though rendered somewhat more grotesque by northern peculiarities of language and habit.

In a people so far behind their neighbours in domestic organisation, poor and hardy, inhabiting a country of mountains, torrents, and rocks, where cultivation was scanty, accustomed to gloomy mists and wild storms, every impression must necessarily assume a corresponding character. Superstitions, like funguses and vermin, are existences peculiar to the spot where they appear, and are governed by its physical accidents. In the well-lighted drawing-room, we have the latest fashionable quackery; in the churchyard or the ruined mansion, we have the pallid spectre; in the stormy mountains, the ghosts of a traditional gigantic race rise before the tired wanderer in misty masses. When the benighted traveller is intercepted by a torrent, struggling among rocks bored into black holes by the cataracts, he thinks he sees the water-kelpie leering from each cavern, as he seeks dubiously and nervously a point where he may venture to cross. On vast treacher-

ous marshes, where the danger to the belated wanderer is not so obvious but is often more formidable, he is led on by the perfidious will-o'-the-wisp—a creature of the English fens, of whom no trace can be found among Scottish superstitions. As gentles swarm about the putrid flesh of the dead dog, and bugs inhabit decayed deal, and earwigs shelter themselves behind the bark of rotting staves, so the superstitions which arise out of intellectual putrescence vary with the conditions in which they appear—and thus it is, that the indications of witchcraft in Scotland are as different from those of the superstition which in England receives the same name, as the Grampian Mountains from Shooter's Hill or Kennington Common.

Mr. Charles Knight, in his over-interesting and pleasant Commentaries on Shakspeare, endeavours to show that the machinery of the witchcraft scenes in Macbeth must have been found in a journey through Scotland; and, unable to discover any ordinary traveller's traces of Shakspeare having been there, tries to prove it by internal evidence from the tragedy. Thus he thought he could make out that the witches in Macbeth are Scottish, not English. From the home market they certainly are not; Shakspeare was far too great an artist to make the domestic nuisance called a witch in the neigh-

bourhood of Stratford-on-Avon, a material worker in the ancient revolutions and tragic events of a kingdom, supposed by all ordinary readers of history to have been ruled by a line of Oriental monarchs, who had passed northward from the palaces of their fathers, the Egyptian Pharaohs, several hundreds of years before the birth of Christ. Shakspeare would as readily have made Cassius an alderman, or Mark Antony the right honourable gentleman, or have given Cleopatra a starched ruff,—as have set English witches on the blasted heath. In fact, with the despotism of genius, he suited matters to his will. The witches in Macbeth are neither Scots nor English, nor are they beings of any other country—they evidently embody whatever was picturesque, powerful, and worthy of artistic admiration in all the witch lore that he had read. They partake as much of the Parcæ of the Greeks and the Choosers of the slain of the Norse mythology, as they do of any superstition alive in later ages.

> "If you can look into the seeds of time,
> And say which grain will grow and which will not,"

looks more like a classical than a northern representation. And again:

> "Though ye untie the winds and make them war
> Against the steeples—though the yeasty waves
> Confound and swallow navigation up,"

might be readily enough suggested by the Scottish

witchcraft scenes. Nothing about them, however, was at that time to be found in literature, and it is drawing too distant a conclusion to maintain from such coincidents that Shakspeare must have wandered in Scotland, and, mixing with the peasantry, have learned their superstitions, when there were other more obvious sources whence he might have drawn his materials. Olaus Magnus, whose pages are rife with elementary wrath, and all that the hardy Norsemen endure in sea-storms, pathless glaciers, and the cold and darkness of the northern winters, amply delivers himself on the power exercised by witches and the other servants of Satan over this dread enginery. The little Latin of the dramatic sage would be enough to let him into the Bishop of Upsala's history of wonders; and the same materials may be traced to many other sources—in a great measure, even to the Latin poets, in whose phraseology the bishop in some measure invests his descriptions.

It is not proposed on this occasion to offer a complete account of the trials for witchcraft in Scotland. Even if omitting the very offensive portions already alluded to, it would not perhaps be welcome to the ordinary reader. Along with much dull, dreary nonsense, he would have perhaps to complain of matter which he had already seen in popular litera-

ture, being reiterated on him. It may not, however, be uninteresting to those who do not peruse the Scottish criminal records in their native form, to read a few selected characteristic extracts from them, no further differing from the original record than in the modernising of the spelling. Some trials which took place in Aberdeen in the year 1597, may be counted a fair enough specimen of this class of documents. A commission was in that year granted by the king in council to the provost and bailies of Aberdeen for the trial of Janet Wishart, spouse to John Leys Stabular, in Aberdeen; John Leys, her son, Isobel Cockie, in Kintore, and other persons, suspected of "witchcraft, sorcery, and other devilish and detestable practices."* The fate of the accused persons was deemed a matter of small importance, otherwise the trial would not have been left in the hands of these respectable magistrates—but the accusations are not thence the less characteristic. A few extracts from them follow. The time of the first charge is day dawn, or "the greiking of the day." Then did Janet Wishart meet a mariner intending to go on board his vessel, in this wise:

"Thou the said Janet Wishart returning from the blockhouse and Futtie, where thou had been

* Miscellany of the Spalding Club, i., 84 et seq.

consultand with the devil, thou pursuing Alexander Thomson, mariner, coming forth of Aberdeen to his ship, ran betwixt him and Alexander Fidler's door under the Castle-hill, as swift, as appeared to him, as ane arrow could be shot forth of a bow—going betwixt him and the sun then cast thy cantrips* in his way. At the whilk moment the said Alexander took an extreme fear and trembling, where through he was forced to return home unpassed to his ship, took bed, and lay by the space of ane month fast bedsick, so that nane believed his life; the ane half of the day rosten in his body as if he had been rosten in an oven with an extreme burnen drought so that he could never be satisfied of drink; the other half of the day melting away his body with an extraordinar cold sweat. And the said Alexander Thomson, knowing that thou had casten this kind of witchcraft on him, send to thee his own wife with Catherine Crawford, sharply boasting and threatening thee, that unless thou incontinently remedied him then, that he would cause burn thee—thou sent with the said Alexander's wife and the said Catherine Craw-

* This word puzzles the philologists. Dr. Jamieson, in his Scottish dictionary, says: "I have sometimes been disposed to think that it might be a sea term, or one borrowed from gipsy language, from *cant*, to throw or cast, or turn over, and *reap*, or *rope*, as alluding, perhaps, to the tricks of juggiery."

ford certain beer and other thy drugs to drink—after the whilk reproof and receipt of thy drugs, the said Alexander daily mended, and returned again to his wonted health."

Certain scholars or students see the witch coming out of Adam Mair's grain-field at two o'clock of the morning, whereon they give information to his wife of the suspicious event:

"And thou then instantly being revealed to the wife of the said Adam, thou in thy fury answered and said to the said scholars, 'Well have ye schemed me—I shall gar the best of you repent,' and ere four afternoon that thou should gar as many wonder at them as should see them. Upon the same day, betwixt two and three hours afternoon, the said scholars passed to the old watergang in the links to wash them, and after they had once washen themselves and dried again, the said John Leslie and Johnston took a rink or race beside the watergang, and most desperately, through thy witchcraft casten on them, ran in the midds of the watergang and drowned themselves—and thereby, thou, as thou promised, murdered them."

"Item, these twenty years last by-past, thou continually, and nightly upon the night, after eleven hours at even, while as thy husband and servants pass to their bed and take rest, then thou puts on nightly ane great fire, holds the same on the haill

night, and sits thereat thyself using thy witchcraft —altogether contrarious to the nature of well-living persons. And such nights as thou puts naut on fire, then thou gangs out of thy ane house—remains therefrom the haill night where thou pleases."

"Item, thou and thy daughter, Violet Leys, desired thy woman to gang with thy daughter at twelve hours at even to the gallows, and cut down the dead man hanging thereon, and take a part of all his members from him, and burn the dead corps —whilk thy servant would not do, and therefore then instantly thou put her away."

"Item, nine years since or thereby, Kelman, wife to John Taylor, then being in thy service in time of harvest, gangen to Gordon's mills to grind corn to the hooks with thee, a part being ground in the night, thou and she returning after midnight, passed out of the common way, passing through the links, the gate to the gallows, whereat the woman was greatly afraid and refused to gang— yet thou urged her nought to fear in thy company, so that she was forced to come forward where thou brought her to the gallows, and show her that thou would learn her ane lesson whilk would do her good all her days—and ane dead man being hanging there bade her hold his foot, while she cutted off a part of all his members—whereat the woman was stricken with such fear, fell dead, and refused to

meddle with such thing. Whereupon, thou forcibly straited her by her oath never to reveal, or else thou would instantly gar her die."

The following items bear on the witches' command over the elements:

"Within these two years certain honest women within this burgh, with Andrew Rait mariner's wife, came to thee to buy malt, to whom thou answered that thou had nane winnowed, but desired them to remain and they should have—incontinent. Who answered thee that there was no wind to winnow any malt, and thou said thou should get wind enough to do thy turn. Immediately thereafter thou took ane coal of fire, and divided it, the one half thou put in the one door and the other half in the other, and said thy orisons thereon. Thereafter there came wind enough in at thy doors, whereas there was none in the field.*

"Thou art indicted and accused for practising of thy witchcraft in laying of the wind and making of it to become calm and louden, a special point teached to thee by thy master Satan, whilk thou did in this form: taking of ane beatle in the craig

* There was for some time a superstitious prejudice in Scotland against winnowing-machines, as a presumptuous interference with the elements—but superstitions do not hold out long in the north against palpable and profitable improvements.

toun of Lunfanan,* and hanging up of the beatle by ane string or thread, and whispering thereon thy devilish orisons by a certain space, through the whilk thy devilish witchcraft so used by thee, the wind—that blew loud, the whilk no man for the greatness and vehemency thereof could hold his feet upon the ground—became calm and low."

The charge of bringing on a sickness by witch cantrips is frequently repeated almost in the terms already cited. Intervals of burning heat and icy

* This was a tolerably well-selected place for witchcraft machinations with the elements, from its connexion with the fate of Macbeth. But if Shakspeare had known of the history of this laying of the storm, it might have come accompanied with historical intelligence undermining the chief events of his tragedy. There are few things about Macbeth, except indeed his connexion with this remote spot, which are not very vague and dubious. It is questioned if he was a very good or a very bad man. It is questioned if he murdered Duncan, or if in his person he slew the usurper of his wife's throne in open battle. There is little doubt, however, that death overtook him at Lunfanan. All the older chroniclers state it distinctly, and it is a remote unknown spot, unlike the conspicuous places with which tradition generally associates strange stories of the death of kings. Wyntoun, in his vernacular, gives all the stages of the chase across the Grampians, and then

"This Macbeth alewe thai than
Into the wode of Lunfanan
And his hewyd thai struk off there."

To this day, on a bleak mountain-side in that remote district, a grey heap of stones is known by the name of Cairn Beth, a name preserved without reference to any tradition about the monarch's fate: throughout Scotland, tradition has followed Shakspeare by making his death take place at Dunsinane.

coldness, or their coexistence, in different parts of the body, are among the perpetually-recurring features. The patient is said sometimes to decline like a lighted white candle, and an intolerable thirst or "drouth," not to be slaked by any amount of any kind of liquor, is an almost invariable feature. The charges then pass for a long way through very sublunary and material matters, such as the destruction of brewsts of ale, or the bewitching of clothes with an element of decay, which makes them wear out long before the owner had calculated on the necessity of renewing his garments, and sensibly affects his temper. One long charge relates to a leg of roast mutton, whence the witches dug out handfuls of flesh, distributing the same with baleful and deadly influences. Suddenly the charges which are of the earth earthy, take a turn to the wild aerial diablery which will be found in the following fragments:

"Thou confesses that the devil thy master, whom thou terms Christsunday, and supposes to be an angel and God's godson—albeit he has a *thraw* by God, and sways to the Queen of Elphin*—is raised

* In the Record "hes a thraw by God and swyis to the Queen of Elphen." It may be put thus, with a great diminution in the power of the expression—he has a tendency against the Almighty and towards the Queen of Elphin. The extreme irreverence as well as logical absurdity of such a form of accusation are sufficiently obvious.

by the speaking of the word *Benedicite*, and is laid again by taking of a dog under thy left oxter (shoulder) in the right hand, and casting the same in his mouth, and speaking the word *Maikpeblis*, (?) and that Christsunday bit a mark in the third finger of thy right hand, whilk thou has yet to show. Suchlike thou affirms that the Queen of Elphin has a grip of all the craft, but Christsunday is the goodman, and has all power under God, and that thou kens sundry dead men in their company, and that the king that died at Floden and Thomas Rymour is there."*

* The fate of James IV. and the battle of Floden were then a history of only fifty-five years old; but the superstition among the common people, of the Scottish monarch wandering in elf-land, shows how much the catastrophe of Floden was considered a national calamity, and how affectionately the warrior-monarch was remembered, even in the remotest parts of the Scottish Lowlands. The reference to Thomas Rymour, or Thomas of Ercildoun, might seem far more remarkable to persons not acquainted with the traditions of the North, since it refers to a person whose traditionary fame must have been a matter of greater antiquity at the period of the battle of Floden than the battle of Floden is to us of the nineteenth century. But the fame of the prophet-poet seems to have been ever strongest in Aberdeenshire, some 200 miles from the Border district, with which all that is known of his history is associated. Thomas was, however, one of those beings whose names seem to be syllabled by airy tongues, and who, like the Sacroboscos, Erigenas, and Duns Scotuses, are claimed by many countries. Wide, however, as the popularity of his name has been, the Rymer seems to have been always considered a Scot. Conrad Gesner says in his "Bibliotheca," some forty years before these Aber-

"Item, upon the rood-day in harvest, in this present year, whilk fell on a Wednesday, thou confesses and affirms thou saw Christsunday come out of the snow in likeness of a stag, and that the Queen of Elphin was there and others with her, ryding upon white hacknies, and they came to the Binhill and Binlocht, where they use commonly to convene, and that all they who convenes with them, kisses Christsunday and the Queen of Elphin, &c., as thou did thy self, and if thou got leave to have keeped the convention on All-Hallow even last was thou would have told of all them that should have been there in company with them."

"Item, thou affirms that the elves have shapes and clothes like men, and that they will have fair covered tables, and that they are but shadows, but are starker* nor men, and that they have playing

deen trials, "Thomas Leirmont, vel Erailetonus, natione Scotus, scribit Rhythmica quædam, et ob id Rhythmicus apud Anglos cognominatus."

* *Stronger. Stark* is still used north of the Grampians. It is one of many north-eastern terms, which, while unknown in the south, are not only traceable to a Teutonic continental root, but are identically the same with words used in Germany. In Aberdeenshire there are many terms obsolete in England, and even in the south of Scotland, which are to be found in use in Germany, but a still greater number which are in familiar use in Low Dutch. It would be a curious piece of philological work to find out how many of them, if any, are Anglo-Saxon, deserted by England and southern Scotland. It is a curious enough inci-

and dancing when they please—and also that the queen is very pleasant and will be old and young when she pleases."

"Item, thou affirms that thou can take away a cow's milk when thou pleases, and thou promised to Alexander Simpson to do the same."

"Item, thou grants and affirms that the fruit of the corns is taken away by stripping of the crops of the straw, and casting it among the rest of the corn, by saying these words: 'The dirt to thee, and the crops to me,' nine sundry times—and if the plough-irons be dipped in lax water the oxen will not run away."

"Item, that at the day of judgment, the fire will burn the water and the earth and make all plain, and that Christsunday will be casten in the fire because he deceives worldlings men. And this year to come shall be a dear year; and that there shall be twice seven good years thereafter. And this intelligence thou had from Christsunday thy master, whilk is plain witchcraft and devilry. Like as thou affirms and allows plainly—if thou look at a man's hand thou shall tell him what ane wife he shall get."

dental circumstance, that though a thoroughly northern term occasionally occurs in these records of witchcraft trials, yet the language of the record is on the whole less peculiarly Scottish than the parliamentary privy council and other metropolitan records of the same period.

"Item, thou grants the elves will make thee appear to be in a fair chamber—and yet thou shall find thyself in a moss in the morn; and that they will appear to have candles, and light, and swords, whilk will be nothing else but dead grass and straw—amongst whom thou art not afraid to gang, as thou frequently all thy day has used their company and society."

"Item, thou bidds lay the harrows on the land before the corn be brought forth, and hold off the crows until ane ridge be broken—for the crows are witrif (very cunning) beasts; and the devil will come in their likeness; and bidds say an oration—whilk thou has perqueir—nine sundry times, and that being done, the corns shall come safe to the barn that year. Suchlike, thou affirms the crows will bring a stone from one country to another to gar their birds cleck—whilk intelligence thou has of Christsunday, and is plain devilry and witchcraft—whilk thou can nought deny."

"Item, thou affirms that at the day of judgment Christsunday will be notary to accuse every man, and ilk man will have his own dittay* written in his own book to accuse himself, and also that the godly will be severed from the wicked, whilk was revealed to thee by the devil thy master."

* The equivalent, in the Scottish vernacular, of indictment, as a derivative from *indictamento*.

Though these reckless fancies do sometimes touch the border of poetry, there would certainly not be found enough of imagination in them to make them worth reading or thinking of, were it not that they were the substantial accusations raised against human beings, on which they were, in this country of well-administered justice, accused, tried with or without torture, condemned to death, and burned in a large fire fed with fagots and tar. In the perusal of these documents, it can hardly fail to be noticed how utterly repulsive the very terms of the accusations are to the spirit of Christianity. This may be counted a vague term; and it is more distinct to say that the official persons who drew out these charges, had little notion of the doctrines of Christianity as they are now followed, in an age whose greater civilisation is the companion of its higher development of religion. The thorough misunderstanding of the Christian doctrines in these charges—and the same thing is abundantly apparent in others—is a matter that must be left to the reader's judgment. The doctrinal discussion of it would not be appropriate to such an occasion as this, nor would it be adapted to the writer's knowledge or pursuits. The general antagonism, however, to Christianity, as it is now generally believed in, of the whole scheme of a belief in witchcraft,

and of course of all the accusations in which it is embodied, forms an important matter in views historical and social, which even people not versed in theological learning are entitled to take up. It might be the more satifactory for laymen to discuss it, but there are few ecclesiastical bodies of long standing, the predecessors of which have not embrewed their hands in blood in the pursuit of the old barbarous and unchristian notions on witchcraft and other superstitions. Churches do not like to find failings in their ancient foundations; and theologians will not readily endeavour to prove that those whom they represent by apostolic descent, or otherwise, were bad Christians. There can be no doubt, however, to the ordinary critical reader of witch trials, that all the belief on which they proceeded is characteristic rather of the creed of Zoroaster, or of those who made human deities endowed with more or less of human wickedness and weakness, than of the religion of the New Testament. In fact, it probably would not be difficult to show historically that the whole of this class of superstitions is a remnant of heathenism, running like a disturbing vein into Christianity. Its occasional identification with classical and northern superstitions has been noticed already, and may receive further attention as we go on. The classical co-

incidences, however, are the mere forms in which the clergy and the lawyers dressed their narratives. The heathen worship and superstitions of the northern nations were still practically alive in the witch revels or Sabbaths, which have descended from the customs of Valhalla, and are told nearly in the same terms by Olaus Magnus, and by the concoctors of the Aberdeen indictments.

With these casual comments to draw attention to the peculiar character of the charges, a few more extracts from these singular accusations are offered:

"Thou art indicted and accused for being with Janet Wood, goodwife, of Pitmurchie, in winter last past, in her house of Pitmurchie, she and her husband lying in ane chamber, and thou lying in the same chamber in ane bed—none being in the house but the three; the devil thy master came to thee, and then by his instigation and thy enchantment, the goodwife being lying sick, the parpan wall of the house shook and trembled and made such ane din and noise as the same had been hailely fallen, and there-through the goodwife and the goodman was so afraid they could nought be contained within their beds for fear and dread that the wall should fall on them—albeit, there fell not ane stone thereof. And this thou did, being enspired by thy master as said is—and this thou confessed the shaking

and tumbling of the wall, alleging only it was dogs and cats that ran on the wall."

"Item, at this same night that the wall trembled and shook by thy devilish enchantments, the devil thy master appeared to thee in the said goodwife of Pitmurchie's chamber, where the goodman himself was lying, in the form of ane four-footed beast, and specially like ane futret, and sometime like ane cat, and ran about the said goodman of Pitmurchie's bed-clothes where he was lying, whereby he was so terrified that he cried, and thou speired at him what moved or troubled him—and he answered thee again, 'I trow the deil is in this house for I can nought lie in my bed for fear,' and he incontinently rose, lighted ane candle to see if there were any cat, dog, futret, or other four-footed beast about the house—who finding the doors and windows all fast could see nothing. To whom thou answered and said then again, 'Goodman, be godlie; if ye have tane any man's geer, restore the same again, and then the devil will nought appear.'"

This injunction was supposed to be a solemn mockery of the scriptural exhortations to penitence and the functions of the clergy. The tormenting of their victims by the presence of animals, we shall find to be among the most ordinary of the witch impeachments. Its phenomena are among the

most easily resolvable by ordinary natural agency, in the habits of the animals,—domestic, such as cats, or wild, such as rats,—which frequent houses; and, what cannot thus be accounted for, may be resolved by the phenomena of dyspeptic dreams. The following act of vengeance is also characteristic of the ordinary accusations against these poor wretches:

"In June last or thereby, thou being entering into the kirkyard of Kincardine, gangen in at the kirk door thereof, umwhile Alexander Burnet, son to James Burnet in Larguie, ane young able man, meeting thee, and seeing that thou was going to offer thyself to bide ane trial for witchcraft, he knowing by open voice and common fame that thou wast ane witch, said merrily to thee, 'Get fire to the witch carling.' Then thou answered the said Alexander, being instructed at the present by thy master Satan, 'Thou shall be first drowned ere I be burned;' and true it is that then thy dittay being obscured* by the reason aforesaid, continually from that forth, the said Alexander being in his flower,† and coming but to his ability, by thy witchcraft and sorcery then casten on him, never ceased till

* *Dittay obscured*—indictment hidden. One of the charges against this woman—which can scarcely be called a supernatural one—was bribing the clerks of court with ten merks to "obscure and extract the dittay."

† The flower of his age.

that he riding in company with the Laird of Muchals and divers other gentlemen, in the water of Don, to wash their horses in ane hot summer's day, the said Alexander drowned, and the rest was safe—and so that inspiration whilk thou had of thy master the devil came verily and truly to pass and took effect, in that he first drowned before thou was burnt for thy witchcraft. And to verify this to be true, ere ever any word came to Lunfanan, where thou dwell, of the drowning of the said Alexander Burnet, or ever any man or woman in these parts knew or heard thereof, thou passed to Kincragie, and said to the goodman, goodwife, and their family, "I have gotten my heart's desire and wish upon one—that is Alexander Burnet, who is drowned before I be burned.'"

The next series of extracts in which we shall indulge are by no means of so homely and natural a cast, but bring us again into the darker recesses of Satan's peculiar dominion:

"Thou art indicted and accused for being in company and society with thy master the devil, of whom thou learned all thy sorcery, at ane dance, where there was with thee eight other persons at ane grey stane at the foot of the hill of Craigleuche, where thou and they was under the conduct of thy master the devil, dancing in ane ring, and he play-

ing melodiously upon ane instrument, albeit invisible to you," &c.

"Upon All-hallow even last by-past, at twelve hours in the night, or thereby, thou comes to the fish-cross of this burgh, under the conduct of Satan thy master, playing before thee on his form of instruments—and there in company with thy devilish companions and faction transformed in other likeness—some in hares, some in cats, and some in other similitudes, ye all danced about the fish-cross and meal-market for a long space. Of the whilk dance, umwhile William Leys was ringleader, whilk he confessed himself before his death—and that thou was ane of the number."

The passages that follow begin charges of the same character, but the scene gradually shifts to superstitions of another class:

"Thou confessed that the devil thy master, whom thou terms Christsunday, caused thee dance sundry times with him, and with our lady—who, as thou says, was a fine woman clad in a white walicot, and sundry others of Christsunday's servants with thee, whose names thou knows not, and that the devil played on his form of instruments very pleasantly unto you."

"Item, thou confessed that thou can charm a sword in such sort, that the owner thereof shall not

get his blood drawn, nor reap any skaith so long as he has that sword—whilk charm, as thou confessed, is after this form: To cause the man that owns the sword, take it naked in his right hand and kiss the guard thereof, and then make three crosses in the gait therewith, in the name of the Father, Son, and Holy Ghost—and Christsunday. And this lesson thou confesses thou learned of thy master Christsunday."

"Item, thou confessed that thou bade William Innes of Edingeith, take the cross of a rowan tree, and put on his right shoulder and turn him thrice about, and beseech him to the Father, Son, and Holy Ghost, and Christsunday—and no evil would dare upon him."

"Item, thou confessed that thou could help sick cattle by saying an oration to them, whilk thou repeated this day in the kirk, wherein there was a part in these words: 'Nine times God swarbed between me and them,' and by casting south running water on them, in the name of the Father, Son, and Holy Ghost, and Christsunday, whereby thou would recover their sickness."

"Item, thou confessed thou washed James Cheyne in Pein, twenty days since, or thereby, with south running water in his own house, and caused his own hire-woman bring in the water unspoken, and

when he was washen therewith, thou caused the said woman cast it in the same place where she took it out, and bade her keep the same from the cattle."

"Item, on Sunday last thou confessed the devil thy master, whom thou calls Christsunday, came to thee in the house of the said James Cheyne, about twelve hours of the night, in the likeness of a black stag, and bade thee be his servant, with whom thou consulted a long space."

"Item, thou confessed, in presence of Mr. Thomas Leslie, sheriff depute, and sundry others, that the devil appeared to thee within these eighteen days or thereby, whom thou calls thy God, within the said James Cheyne's pantry, about one hour in the night, and appeared to thee in ane great man's likeness with silken habiliments, with ane white candle in his hand, and then gave thee thy injunctions to use thy devilish practices and services."

Such are a few of the more remarkable incidents and characteristics selected out of a very large mass of matter. Besides the portions which have been deemed curious enough to be set down as they are found in the original documents, a minute investigator might find embedded in uninteresting verbiage or tedious details, little incidental matters which are curious, and might be important to psychological inquirers, but are not sufficiently continuous and

distinct to be interesting in a work chiefly of a narrative character like the present. Classification and arrangement do not readily apply to matters of so vagrant a character as deposed superstitions. They are not, like an accepted science, where the dropping of an insignificant portion, like breaking a wheel of a watch, disturbs the whole economy; they are rather like a mountain landscape, where we desire the lights and shadows, the sparkle of the waters, the green of the forests, and the general hue and character of nature as it is there to be found. Still, in the same arena there are other workers—geologists investigating the strata; botanists, agricultural chemists, trigonometrical surveyors, and so forth. The field opened up by these extracts does not seem promising, but to inquirers into psychological and even physiological matters, these trials for witchcraft, occupying upwards of a hundred very closely-printed quarto pages, may afford valuable raw material.

Before leaving these curious records, however, it is scarcely more than fair to the reputation of the whole system of witch-belief, which in the extracts hitherto indulged in has a wildly capricious, fantastic, and malicious character, to quote one passage, illustrative of those neighbourly services which seem sometimes to have been either begged or bought

from these witches, and sometimes to have been exacted by harsh threats of denunciation and punishment. We have here the method of reclaiming a bewitched mill; and it may be important to those who consider such objects as matter of scientific inquiry, instead of general curiosity, to find a case in point, showing that when one witch lays on a spell, it is necessary to have the services of another for its removal; just as a miller of the present day, having found that a lawyer, by some mystical process full of hard and incomprehensible words, had stopped his mill and laid an embargo on his property, finds that he must employ another lawyer for the removal of these insidious restraints or spells. Christian Reid is indicted as a notorious witch and sorcerer: "Thou came to Walter Innes, miller, at the mill of Federet, he being standing at the said mill, and said to him, 'Ye are bewitched, and your mill also, and if you will give me any geer, I will get you remedy both for thee and for the other. And as to your mill, if you satisfy me, I shall get her remedied presently at home; but as to yourself, you man gang forty miles ere you get your own health.' And the said Walter Innes answered thee, 'I care not so much for my own disease as I care for my mill; and if thou presently will remeid my mill, I will recompense thee therefor.' And this thou canst

nought deny, for thou hast confessed this point already in the kirk of this burgh, before the provost, ministry, and divers others.

"Item, thou art indicted as a manifest witch and sorcerer, in so far that in the month of March last by-past, fourteen days or thereby before pasche last, after thou had spoken in this form with the said Walter Innes, thou passed to one Catherine Gerard, spouse to Crawford in Ironside, and daughter to one Hellie Pennie, that was burnt for witchcraft before in Slains; who, as thou alleged, desired thee to speak the forementioned words to the said Walter, and said to the said Catherine, 'I have spoken with Watt Innes, who says he will give some of his geer to remeid his mill;' and the said Catherine answered thee, 'Well then, if so be ye must do a little thing for me at this time—and I will do as meikle for you again—whilk is this: Ye shall gang to the mill of Federet, and take up a little sand at the west cheek of the north door of the said mill, and cast the same upon the stones and wheels, in the name of God and Christsunday, and then the mill shall be in the old manner.' And upon this, thou immediately thereafter, at the direction of the said Catherine, passed to the said mill and did as aforesaid; and then the said mill, whilk of before, by thy witchcraft, and by the witchcraft

and devilry of the said Catherine, was unable to gang, and the wheels whereof could not be put about by eight men, ground after her old form, and made good meal and sheeling.

"Item, &c., thou confesses, thyself, that albeit Catherine Gerard cast on the witchcraft on the mill, she could not take it off herself, but it behoved another witch to take it off, for she could nought take off the witchcraft which she cast on. And therefore, seeing thou took off that devilry and inchantment off that mill by thy devilry and witchcraft, thou canst nought be clensit from witchcraft, for none can take it off but witches."

Should these incoherencies—some of them so wild and demoniacal, others so homely—seem to the reader a semi-jocular narrative, that never can have been connected with serious results, there is a black account in the records of the receipt and expenditure of the funds of the good city of Aberdeen, telling another tale. The clerk makes up a statement of "the disbursements made by the compter, at command and by notice of the ordnance of the provost, bailies, and council, in the burning and sustentation of the witches." Putting the sustentation after the burning is not logical, but it is evident that the civic officer did not put himself to the trouble of reflecting that the one expense naturally preceded

the other. Among the earliest of the items is one that might, one would think, have even made a civic dignitary shudder—at all events, it would not make its appearance at the present day in an account-book, in terms so repulsively expressive. A sum of ten shillings is charged "for trailing of Monteith through the streets of the town in ane cart (who hanged herself in prison), and for cart hire and eirding of her (earthing or burying her)."

To the account of Janet Wishart and Isabel Cockie, there are set forth the following significant items:

	s.	d.
For twenty loads of peats, to burn them . .	40	0
For one boll of coalls	23	0
For four tar-barrels	26	8
For fire and iron barrels	16	8
For a staik and dressing of it	16	0
For four fathom of tows (ropes)	4	0
For carrying the peats, coals, and barrels to the hill	13	4
To John Justice, for their execution . . .	13	4

The Dean of Guild of the town gained for himself golden opinions from his fellow-citizens, and was voted a pecuniary reward for his affectionate attention to their interests, in ridding them of witches. It was the function of this important officer, like the Edile of the Romans, to look after the public edifices, and protect the citizens from injury by ruinous buildings. As a clerk of works would deem that he did service in the present day

by ridding the establishment under his management of bugs or rats, so it seems to have been deemed an act of zealous official duty, and good neighbourship, in the inspector of streets and public buildings to look after the burning of the witches. Hence, on the 21st of September, 1597, the provost, bailies, and council, considering the faithfulness shown by William Dun, the Dean of Guild, in the discharge of his duty, "and, besides this, his extraordinarily taking pains in the burning of the great number of the witches burnt this year, and on the four pirates, and bigging of the port upon the brig of Dee, repairing of the Grey Friars Kirk and steeple thereof, and thereby has been abstracted from his trade of merchandise continually since he was elected to the said office"—he is allowed a gratuity of forty-seven pounds out of the penalties levied on those who catch salmon out of season.*

Among the expenses of the occasion was that of building a palisade to keep off the crowd who thronged to "the great number of the witches burnt this year," and the account intimates that it was broken down through the eager pressure of the mob. In the good old times, such holocausts occurred at intervals like storms or inundations. When

* Editor's Preface, to Miscellany of the Spalding Club, vol. i.

the moral tempest of hatred and bigot ferocity was sweeping by, then was the time for all who had some old wrong to avenge, or who had been nourishing in their bosoms some well-matured hatred, to seize the opportunity and strike their enemies; then was the time for the strong, the fierce, and the unscrupulous, to triumph in the bloody struggle, and the weak to be trodden in the earth. And, in such a conflict of utter selfish ferocity, unlighted by any ray of generosity, chivalry, heroism, or even mercy, it is not surprising that we should find, when we analyse the fate of the strugglers, that men strong in person, in skill, and in social condition, should be the victors, and that aged women should be the victims.

These matters happened, as we have seen, in Aberdeenshire, just at the close of the sixteenth century. Sixty-four years later, there was another and similar outbreak in the parish of Auldearn, in the neighbouring county of Nairn. The documents which we possess relating to the Aberdeen cases are chiefly the accusations—those which relate to the Auldearn witches are singularly enough their confessions—a fact, the import of which will have to be afterwards noticed. There is a remarkable similarity to each other in these sets of instances; but the Auldearn witches were, as we shall find,

the more heteroclite of the two, and they had far greater lyrical capacities, indulging themselves abundantly in poetry and song.* According to the method adopted with their predecessors, some characteristic fragments from these lengthy statements are here strung together. In the present instance, the impression thus derived of the original will not be a very false one, as it is in many places fragmentary and imperfect. These women then confess, in the presence of the sheriff of the county, the clergyman of the parish, and a worshipful assembly of country gentlemen, such things as these:

"As I was going betwixt the towns of Drumduin and the heads, I met the devil, and there covenanted in a manner with him; and I promised to meet him in the night-time in the kirk of Auldearn, whilk I did. And the first thing I did there that night, I denied my baptism, and did put the one of my hands to the crown of my head and the other to the sole of my foot, and then renounced all, betwixt my two hands, over to the devil. He was in the reader's desk, and a black book in his hand.

* The Confessions of the Auldearn witches—a document almost unrivalled in interest in this department of inquiry—may be found in the Appendix to Mr. Pitcairn's Collection (iii., 602). A portion of it had been shown to Sir Walter Scott before the publication of Mr. Pitcairn's work, and is referred to in his Letters on Demonology and Witchcraft.

Margaret Brodie, in Auldearn, held me up to the devil to be baptised of him; and he marked me on the shoulder, and sucked out my blood at that mark and spouted it on his hand, and sprinkling it on my head, said, 'I baptise thee, Janet, in my own name.'"

"John Taylor and Janet Breadhead, his wife, &c., and I myself, met in the kirkyard of Nairn, and we raised an unchristened child out of its grave, and at the end of Bradly's corn-field land, just opposite the mill of Nairn, we took the said child, with the nails of our fingers and toes, pickels of all sorts of grain, and blaids of kail, and hacked them all very small together, and put part thereof among the muckheaps of Bradly's lands, and thereby took away the fruit of his corns, &c., and we parted it among two of our covins (covies or companies). When we take corn at Lammas, we take but about two sheaves when the corns are full, and two stocks of kail or thereby, and that gives us the fruit of the corn-land, or kailyard, where they grow."

"When we go to any house we take meat and drink * * * we put besoms in our beds with our husbands till we return to them again. We were in the Earl of Murray's house in Darnaway, and we got enough then, and did eat and drink of the best, and brought part with us. We went in

at the windows. I had a little horse, and would cry 'HORSE AND HATTOCK IN THE DEVIL'S NAME,'* and when any see these straws in a whirl-

* The editor of these Confessions notices a curious confirmation from Aubrey's Miscellanies of this form of northern enchantment. He preserves a tradition how a Lord Duffus, who lived near this same Auldearn, while walking in his paternal fields was suddenly swept away, and was found in the King of France's wine-cellar, with a silver cup in his hand. According to the account of the family tutor who wrote to Aubrey, on being brought before the king and questioned as to his identity, this Scots lord "told his name, his country, and the place of his residence; and that on such a day of the month—which proved to be the day immediately preceding—being in the fields, he heard the noise of a whirlwind, and of voices crying 'horse and hattock' (this is the word which the fairies are said to use when they remove from any place), whereupon he cried 'HORSE AND HATTOCK' also, and was immediately caught up and transported through the air by the fairies to that place. Where, after he had drunk heartily he fell asleep, and before he awoke, the rest of the company were gone, and had left him in the posture wherein he was found. It is said that the king gave him the cup which was found in his hand and dismissed him." The person who communicated this story to Aubrey had made further inquiries in the Duffus family, and found that "there is yet an old silver cup in his lordship's possession still, which is called 'the fairy cup,' but has nothing engraven upon it except the arms of the family." The tutor who communicated these traditions, had his own story of personal experience to tell. It happened when he was a schoolboy at Forres, but there is his own authority for the statement, that he was "not so young but that he had years and capacity both to observe and remember that which fell out." What fell out was this: "He and his schoolfellows were, upon a time, whipping their tops in the churchyard before the door of the church. Though the day was calm, they heard a noise of a wind, and, at some distance, saw the small dust begin to arise and turn round; which motion continued advancing till it came to the place

wind and do not sanctify themselves, we may shoot them dead at our pleasure. Any that are shot by us, their souls go to heaven—but their bodies remain with us, and will fly as horses to us, as small as straws."

"I was in the Downie hills, and got meat there from the Queen of Fairy more than I could eat. The Queen of Fairy is bravely clothed in white linens, and in white and brown cloathes, and the

where they were. Whereupon they began to bless themselves. But one of their number (being, it seems a little more bold and confident than his companions) said '*horse and hattock with my top*,' and immediately they saw the top lifted up from the ground, but could not see what way it was carried, by reason of a cloud of dust which was raised at the same time." From the many persons mentioned in such narratives, a hasty reader might derive the notion that there have been many witnesses of the miracle—while the reality only is, that many people to whom it was told are said to have believed it. The miraculous elevation of the top reminds one of an old Edinburgh anecdote about the elevation of a much more important article—a lawyer's wig. It was in the days when members of the Bar lived in the closes of the High-street, that one of them in full costume for attendance in the parliament-house, having peeped out of his library window to enjoy a stray current of air or a sunbeam that had lost its way, felt his wig removing itself from his head, and, looking up, beheld it ascending towards the clouds. The lawyer being sceptical, desired a solution of the phenomenon, and readily found it. Some children at the window of a floor above were amusing themselves too much in the way marked out for censure by Hogarth, in letting down a kitten by a long string. The animal coming near the wig naturally clutched at it. The children seeing this, pulled the kitten hastily back, lest they should get into a scrape, and hence the rapid and mysterious ascent of the wig.

King of Fairy is a brave man, well-favoured and broadfaced. There were elf-bulls rowting and sqoilling up and down there, and affrighted me."

The belief that a human life might be shortened by the melting of a waxen image—as old in literature as the days of Ovid, and perhaps much older in superstition—was probably never explained in so lively a form as in the following morsel of these confessions. It would almost seem as if the sorceress had a ferocious delight in the accuracy with which the child was represented, and the consequent air of reality in its symbolical torture and destruction:

"Bessie Wilson in Auldearn, and Margaret Wilson, &c., and I, made a picture of clay to destroy the Laird of Park's male children. John Taylor brought home the clay in his plaid neuk—his wife brake it very small like meal, and sifted it with a sieve, and poured in water among it in the devil's name, and wrought it very sore like 'rye-bowt,' and made of it a picture of the laird's sons. It had all the parts and marks of a child, such as head, nose, hands, foot, mouth, and little lips. It wanted no mark of a child, and the hands of it folded down by its sides. It was like a 'pou' or a slain grice [sucking-pig]. We laid the face of it to the fire till it strakened [shrunk] and a clear

fire round about it till it was red like a coal. After that we would roast it now and then. Each other day there would be a piece of it well rosten. The Laird of Park's whole male children by it are to suffer, if it be not gotten and broken, as well as those that are born and dead already. It was still put in and taken out of the fire in the devil's name. It was hung upon an knag. It is yet in John Taylor's house, and it has a cradle of clay about it."

"Elspet Chisholm, &c., and I, went into Alexander Cumming's lit-house [dye-house] in Auldcarn. I went in the likeness of a kea [daw], the said Elspet Chisholm was in the shape of a cat. Isabel More was a hare, and Maggie Brodie a cat. We took a thread of each colour of yarn that was in the said Alexander Cumming's lit-vat, and did cast three knots on each thread in the devil's name; and did put the threads in the vat widdershins* about in the vat in the devil's name, and thereby took

* *Widdershins* is a word in perpetual use in witch trials, and is still employed in some parts of Scotland, chiefly in reference to superstitious legends. It means against the course of the sun. The sound at once carries one to the German *weider* and *schein* or *sonne*, away from the light or the sun. A root common with German words is not a remarkable thing to note about any English or Lowland Scottish term. But in this instance it is curious, as the word widdershins has no cognates, or etymological connexions as they might be called, but is pre-

the whole strength of the vat away, that it could litt nothing but only black, according to the colour of the devil, in whose name we took away the strength of the right colours that was in the vat."

An account of the elf-attendants furnished by the infernal court to these earthly retainers, is, besides its innate vagueness, rendered fragmentary by the partial decay of the record. Still, enough remains in the fragments carefully dovetailed by the editor of the Criminal Trials to give one a more real notion of the familiars of the witch class, than it would be easy to find elsewhere:

"Three would meet—but sometimes a covin, sometimes more, sometimes less—but a grand meeting would be about the end of each quarter. There is thirteen persons in each covin, and each one of us has a spirit to wait upon us when we please to call him. I remember not all the spirits' names, but there is one called Swein, whilk waits upon the said Margaret Wilson in Auldearn. He is still clothed in grass green, and the said Margaret has a nickname called '*Pickle nearest the wind.*' The next spirit is called '*Rorie*,' who waits upon Bessie Wilson in Auldearn; he is still clothed in yellow,

served with its peculiar application, as a Greek or Hindoo word might be. Such a disconnected relic of the common Teutonic root would seem, when its meaning is remembered, to be a remnant of the times of the old Pagan sun-worship.

and her nickname is '*Through the corn yard.*' The third spirit is called '*The Roaring Lion,*' who waits upon Isobel Nicol in Loch Low, and he is still clothed in sea green. Her nickname is '*Bessie Rule.*' The fourth spirit is called '*Mac Hector,*' who waits upon Jean Martin, daughter to the said Margaret Wilson. He is a young-like devil, clothed still in grass green. Jean Martin is maiden to the covin that I am of, and her nickname is '*Over the Dyke with it.*' The name of the fifth spirit is '*Robert the Rule,*' and he is still clothed in sad dunn, and seems to be a commander of the rest of the spirits, and waits upon Margaret Brodie in Auldearn. The name of the sixth spirit is called '*The Thief of Hell wait upon herself,*' and he waits also on the said Bessie Wilson. The name of the seventh spirit is called the '*Red Riever,*' and he is my own spirit, that waits upon myself, and is still clothed in black. The eighth spirit is called '*Robert the Jackis,*' still clothed in dunn, and seems to be aged. He is ane gleiket gowket spirit. The woman's nickname that he waits on is '*Able and Stout.*' The ninth spirit is called '*Laing,*' and the woman's nickname that he waits upon is '*Bessie Bauld.*' The tenth spirit is called '*Thomas a' Fairie.*' There will be many other devils waiting upon our master devil; but he is bigger and more awful than

the rest of the devils, and they all fear him. I will ken them all one by one from others when they appear like a man."

"When we raise the wind, we takes a rag of cloth and wets it in water, and we takes a beetle* and knocks the rag on a stone, and we say thrice over:

"'I knock this rag upon this stane,
To raise the wind in the devil's name,
It shall not lie until I please again.'

"When we would lay the wind, we dry the rag, and say thrice over:

"'We lay the wind in the devil's name,
Not to rise till we like to raise it again.'

And if the wind will not lie instantly, we call upon our spirit, and say to him, 'Thief, thief, conjure the wind and cause it to lie.' We have no power of rain, but we will raise the wind when we please. He made us believe† * * * that there was no god beside him.

"As for elf arrow-heads, the devil shapes them with his own hands, and then delivers them to elf-

* This is not to be understood as an animal of the scarabæus group, but a wooden roller for beating cloth. Those who are acquainted with Scottish legal *facetiæ*, will remember the *jeu d'esprit* about a litigation concerning a diamond beetle, where much of the wit rests on the supposition that it was a beetle for beetling of cloth, and must have been one of a very costly character.

† Fragmentary.

boys, who whyttes and dightes* them like a packing-needle.† * * * Those that dightes them are little ones, hollow and bow-backed. They speak gowstie like. When the devil gives them to us, he says:

"'Shoot these in my name,
And they shall not go haill hame.'

And when we shoot these arrows, we say,

"'I shoot you man in the devil's name;
He shall not wone haill hame;
And this shall be also true,
There shall not be ane bit of him liew.'‡

"We have no bow to shoot with, but spang them from the nails of our thumbs. Sometimes we will miss—but if they touch, be it beast, man, or woman, it will kill, though they had a jack upon them."

This account of the elve weapons answers well to the little sharp, neat flint darts which are found in considerable numbers in the north of Scotland and Scandinavia. The northern antiquaries have classified the flint weapons, and have followed them by an arrangement of the bronze. The flint armory of Britain adjusts itself only to a secondary branch of this system. We are here inquiring, however, not as to these weapons with reference to the time when

* Cleans, or gives the finish—evidently from the same root as the German dichten.

† Some sentences very fragmentary in this part.

‡ Life.

they were used, but as to the condition in which they were—no one can tell how many centuries after the time of their actual use—when the witches of Auldearn were charged with using them. These little fiendish-looking weapons are of the true shape of the barbed dart, as it may be seen in ancient architectural decoration and symbolical sculpture. They are often finished or "dichted" to perfection, the barbs corresponding with each other, and the point as sharp as that of a lancet. Their construction by the mere operation of chipping, indicates a peculiar manual art wrought to high perfection.*

* If the accounts given of the strange contents of the cave near Torquay, called Kent's Hole, are to be entirely relied on, it seems to have been a sort of manufactory of flint weapons. "Here," says the narrator, "in sinking a foot into the soil we came upon flints in all forms, confusedly disseminated through the earth, and intermixed with fossil and human bones, the whole slightly agglutinated together by calcarious matter derived from the roof. My collection possesses an example of this aggregation in a mass consisting of pebbles, clay, and bone, in the midst of which is imbedded a fine blade of flint—all united together by a sparry cement.

"The flints were in all conditions, from the rounded pebble as it comes out of the chalk, to the instruments fabricated from them, as arrow and spear heads and hatchets. Some of the flint blocks were chipped only on one side, such as had probably furnished the axes; others in several faces, representing planes corresponding exactly to the long blades found by their side, and from which they had been evidently sliced off. Other pebbles, still more angular and clipped at all points, *were, no doubt, those which yielded the small arrow-heads.* These abounded in by far the greatest number. Small, irregular splinters, not referrible to any of the above divisions, and which seem to have been

When these beautiful little weapons, made of a stone unknown in the district, were turned up by the plough, it was not wonderful that the peasantry should immediately invest them with a supernatural origin and use. Hence they are still known by a name which may be found alluded to in the oldest Scottish topographical writers, of elfry heads, or elf arrow-heads.* There are many traditions of their having been found in the bodies of cattle suddenly stricken, and still darker rumours of their discovery in human victims. When they are found, it is the practice of the country to hide them carefully, as their accessibility to light and air is supposed to put

struck off in the operation of detaching the latter, not unlike the small chips in a sculptor's shop, were thickly scattered through the stuff, indicating that this spot was the workshop where the savage prepared his weapons of the chase, taking advantage of its cover and the light."—(*Account by Mr. McEnery, quoted in Wilson's Archæology of Scotland*, p. 187.) It is worthy of remark, that the districts where these arrow-heads are chiefly found—such as Aberdeenshire, with its primitive rock—being destitute of flint, the article seems to have been imported from manufactories in the chalk ranges, like Birmingham or Sheffield goods at the present day.

* See the description of Scotland in Blaeu's Atlas, where there are accurate representations of these curious weapons. Its author does not appear to have abjured supernatural notions on their origin: "Solo hoc, lapilli hi mirandi, quod casu aliquando in agris, in publicis tritisque viis reperiantur, nunquam autem investigando inveniantur; hodie fortasse reperias, ubi heri nihil, item, a meridie, ubi horis antemeridianis omnia vacua; et hoc, ut plurimum, sudo cœlo æstivis diebus."—Blaeu Theatrum Scotiæ, p. 105.

them at the disposal of the fiends who use them. It is difficult to conjecture how they can have been attached to a shaft, and it is probable that their deadly efficacy depended on the slightness of the adhesion, so that the barbed flint remained in the wound. Their shafts, of course, however attached to them, have rotted away many centuries ago. Their appearance, therefore, does not indicate how they could have been discharged by ordinary human means, and favours ideas about supernatural agency. It was hence, with a just adaptation to all appearances and to the prevailing notions of the district, that the Auldearn witches said they used no bows, but discharged the deadly weapon by a jerk of the thumb.

So much by way of comment on the application of these wild confessions to facts and local superstitions; the episode may, perhaps, be a slight relief from extravagances which are growing monotonous. At the risk, however, even of tiring the reader with absurdities, some more extracts from these self-accusers' tales are offered. We leave them slaying. The extract which follows begins with a healing charm; but we find them resting not long in the beneficent humour, and returning at intervals to the destructive. The narrative introductory of the following fragment of a rhyme is so extremely

broken and scattered, as but barely to indicate that the intended charm is of a sanatory character:

"'He put the blood to the blood till all upstood—
The lith to the lith till all took with;
Our lady charmed her dearly son
With her tooth and her tongue,
And her ten fingers,
In the name of the Father, the Son, and the Haily Gaist.'

And this we say thrice over, stroaking the sore, and it becomes whole. 2ndly. For the *bean shaw*, or pain in the haunch: 'We are here three maidens charming for the bean straw.* The man of the midle earth, blew beaver, land feaver, maneris of stooris, the Lord fleigged the feind with his holy candles and yeird foot stone.† There she sits, and here she is gone—let her never come here again.' 3rdly. For the fevers we say thrice over: 'I forbid the quaking fevers, the sea fevers, the land fevers, and all the fevers that ever God ordained out of the head, out of the heart, out of the back, out of the sides, out of the knees, out of the thighs —from the points of the fingers to the nibs of the toes, out shall the fevers go—some to the hill, some to the pass, some to the stone, some to the stock.

* The disease called in one place bean, or bone shaw, and in the other straw, is the sciatica.

† As these expressions were not intended to be intelligible in any language that exists, or did exist, they are given in the original spelling.

In Saint Peter's name, Saint Paul's name, and all the saints in heaven, in the name of the Father, the Son, and the Holy Ghost.'

"And when we took the fruit of the fishes from the fishers, we went to the shore before the boat could come to it; and we would say upon the shore side three several times over:

"'The fishers are gone to the sea,
And they will bring hame fish to me;
They will bring them hame intil the boat,
But they shall get of them but the smaller sort.'

So we either steal a fish or buy a fish, or get a fish from them one or ma. And with that we have all the fruit of the haill fishes in the boat; and the fishes that the fishermen will have themselves will be but froth.

"The first voyage that ever I went with the rest of our covins was to the ploughlands, and there we shot a man betwixt the plough stilts; and he presently fell to the ground upon his nose and his mouth; and then the devil gave me an arrow and caused me to shoot a woman in that field, whilk I did, and she fell down dead.

"In winter, 1660, when Mr. Harie Forbes, minister of Auldearn, was sick, we made ane bag of the gall's fleah, and gutts of toads, pickles of bear (barley), pairings of the nails of fingers and toes; the liver of a hare and bits of clouts. We steeped

this altogether all night, among water all hacked through other. And when we put it among the water Satan was with us, and learned us the words following to say thrice over. They are thus:

"'He is lying in his bed—he is lying sick and sore,
Let him lie intil his bed two months and three days more;
Let him lie intil his bed—let him lie intil it sick and sore,
Let him lie intil his bed months two and three days more;
He shall lie intil his bed—he shall lie in it sick and sore,
He shall lie intil his bed two months and three days more.'

"When we had learned all these words from the devil as said it, we fell all down upon our knees, with our hair down upon our shoulders and eyes, and our hands lifted up upon the devil; and said the foresaid words thrice over to the devil, strictly against master Harie Forbes."

The next extract, and it shall be the last, relates to metamorphoses—the most prominent and universal of all witch superstitions:

"The dogs will sometimes get some bites of us when we are in hares, but will not get us killed. When we turn out of a hare's likeness in our own shape, we will have the bites, and rives, and scratts in our bodies. When we would be in the shape of cats, we did cry, and wraw, and riving, and, as it were, whirring on one another; and when we come to our own shapes again, we will find the scratts and rives in our skins very sore.

"When one of us or more is in the shape of cats, and meets with any others our neighbours, we will say, '*Devil speed thee, go thou with me,*' and immediately they will turn to the shape of an cat and go with us. When we will be in the shape of crows, we will be larger than ordinary crows, and will sit upon branches of trees. We went in the shape of rooks to Mr. Robert Donaldson's house—the devil and John Taylor and his wife went to the kitchen chimney and went down upon the cruik. It was about Lammas in 1659; they opened an window, and we went all into the house, and got beef and drink there."

It is not wonderful that the cat should be a favourite shape of metamorphosis. The silent celerity of motion in these domesticated wild beasts, their consequent mysterious apparitions and vanishings, their assemblages and solemn communings with each other; their strange cries, so unpleasantly imitative of the human voice in fright or fury; their proverbial tenacity of life, which frequently startles those who have left them for dead by their reappearance alive; and in general, their strange amalgamation of the savage and the domestic animal have ever made them objects of interest, as the worship of the Egyptians, the history of the Knights Templars, the charges against the Walden-

sian sorcerers, and finally the northern witch trials, exemplify to us.

The latest judicial proceedings for witchcraft in Scotland have an intimate and ludicrous connexion with the habits of these animals. As no inflictions followed on them, the impression left by them is rather in favour of the accuser, who seems to have been so heavily persecuted by troops of unreasonable cats, that if he had a particle of superstition in his nature it could not fail to be roused to his rescue. These irritations occurred in the year 1718, at Scrabster, in Caithness, and the sufferer was an individual named William Montgomery, by trade a mason. His account of the matter, when claiming judicial protection against the powers of darkness, is ridiculous enough, and not unnatural; many occupants of houses with small sunny suburban patches of garden-ground attached to them, have suffered from similar inflictions. He says:

"Your petitioner's house being infested with cats these three months by-past—viz., September, October, and November—to that degree that my wife was affrighted terribly at the fearful and unnatural noise in my absence for most of these months foresaid at Mey, and sent five several times to me to repair home, or else she would leave the house and flit to Thurso; and my servant-woman

was so affrighted by the said cats that she left my service abruptly before term, and would by no means serve me longer; and your petitioner having returned home, was several nights disturbed by these cats, and five of them one night at the fire-side where the servant-woman only was, she cried out 'the cats were speaking among themselves;' and particularly on Friday, the 28th of November, having got in at a hole in a chest I then saw her,* when I watched an opportunity to cut off her head when she put it out at the said hole, and having fastened my sword in her neck, which cut her, nor could I hold her; at last, having opened the chest, my servant William Geddes, having fixed my dirk in her hinder quarter, by which stroke she was fastened to the chest—yet after all she escaped out of the chest with the dirk in her hinder quarter—which continued there till I thought by many strokes I had killed her with my sword; and having cast her out dead she could not be found next morning, though we arose early to see what had become of her. And further, about four or five nights my servant being in bed, cried out, 'That some of these cats had come in on him,'—and having wrapped the plaid about the cat I thrust my

* Meaning a cat. Grammatically, his vengeance would appear to be launched against the servant-woman.

dirk through her belly, and having fixed the dirk in the ground, I drove at her head with the back of an axe until she was dead, and being cast out could not be found next morning."

Though Mr. Montgomery's statement is somewhat incoherent, his measures seem to have been energetic. The real marvel of the case, however, does not come from him, but from the statement of a local judge. The lord advocate, Robert Dundas, hearing that wonderful discoveries had been made in the far north, and apprehensive probably of the recurrence of one of the ferocious outbreaks against elderly females which had so often disgraced the country, desired a special report of the matter, and directed the local judge to leave it in the hands of the law officers of the crown. The sheriff in his report made the following wonderful statement:

"There was no further thought of this affair from December; that the representation was not given in until the 12th of February last; that one Margaret Nin Gilbert, in Owst, living about one mile and a half distant from Montgomery's house, was seen by some of her neighbours to drop at her own door one of her legs from the middle; and she being under bad fame before for witchcraft, the leg, black and putrified, was brought to me, and immediately thereafter I ordered her to be apprehended and incarcerated."

But this was not all. The sheriff enclosed a document which he called the confession of Nin Gilbert, in which there are these statements:

" Being interrogated if ever there was any compact between her and the devil, confessed that as she was travelling some long time byegone in an evening, the devil met with her by the way in likeness of a man, and engaged her to take an oath with him, which she consented to; and that she said she knew him to be the devil ere he parted with her. On being interrogated if ever the devil appeared afterwards to her, confessed that sometimes he appeared afterwards in the likeness of a great black horse, and other times riding on a black horse, and that he appeared sometimes in the likeness of a black cloud, and sometimes of a black hen. Being interrogated if she was in the house of William Montgomery, mason, in the burnside of Scrabster, especially on that night, &c., when that house was dreadfully infested with several cats, to that degree that W. M. foresaid was obliged to use sword, dirk, and axe in beating and fraying away these cats, answered that she was bodily present there, and that the said M. had broke her leg either by the dirk or axe, which leg since has fallen off from the other part of her body; and that she was in the likeness of a feltered cat night foresaid

in the said house: and that Margaret Olsone was then in the likeness of a cat also, who being stronger than she, did cast her on Montgomery's dirk, when her leg was broken." *

It is satisfactory to know, that if the local authorities were in their zeal eager to institute criminal proceedings in this instance, they were checked by the interference of the crown lawyers.

The reader is now, perhaps, possessed of a sufficient quantity of characteristic scenery from the Scottish trials for witchcraft. It is difficult to say what they teach. They must be left almost as they are found, a mass of wild incoherences, incapable of being classified and arranged. Their occasional picturesque darkness, and accompaniments of the ludicrously horrible, are not the creation of vivid imaginations revelling in eccentricity. Even in the midst of the most grotesque confession, something comes forth more indicative of the habitual thoughts of an aged female than of the proper poetical attributes of a demon. We may feel an imaginary thrill when the power of darkness appears as a black horse, as a dark forbidding man of giant frame, or as a cloud; but certainly he drops all his tangible attributes when he assumes the respectable appear-

* Kirkpatrick Sharpe's Preface to Law's Memorials, p. 100 et seq.

ance of *a hen*. We may experience some recoiling yet interested sensations in reading of the metamorphoses into beasts; but when their object is a design to purloin bottles of beer, beef, and legs of roast mutton, the mind passes at once from the ideal to the real. Perhaps, in the remarks now to be offered, may be found to some extent the secret why these accusations and confessions possess a certain fund of picturesqueness mixed with their vulgarity.

It is a startling fact, and one which ought to be boldly dealt with, that the most wonderful of these supernatural statements are to be found, not in mere accusations, but in confessions. To those who hold them to be genuine spontaneous confessions of things that really occurred, there is, of course, nothing more to be said. But it is a matter on which the sceptical reader, who cannot reject the confessions as entirely either forgeries or hallucinations, may have his difficulty, and he will only find a solution of it in the horrible influence of torture. From the time when King James took up this subject, and wrote a book intended to justify his reputation as the Solomon of the seventeenth century, downwards, the lawyers and clergy became imbued with the understanding of certain doctrinal characteristics of witchcraft, which they had found in Del Rio, Sprenger, and the other

scientific authorities on the forbidden art. When they found a witch, they believed that she acted according to the method laid down by these authorities, just as a student of medicine, when he satisfies himself of the existence of typhus or scarlatina, believes that it will develop the symptoms set forth by the professor of Nosology. To a narrative, therefore, of circumstances corresponding with these doctrines, confession was demanded, and, under the influence of torture, yielded.* It was surely not to be anticipated that people of the class and character of these unfortunates could preserve their constancy

* Those who would have the prototypes of a great portion of the confessions of the Auldearn witches, may consult Reginald Scott's eight chapters, which he writes with reluctance, and does not particularly recommend for perusal; Del Rio, Disquisitiones Magicæ, p. 74; Sprenger, Malleus Maleficarum, p. 256-7, a little thick duodecimo volume, which is a complete encyclopædia of diablery, and has the name Magica de Spectris, et Apparitionibus Spirituum (Leyden, 1656); Dialogue de la Lycanthropie; Histoire veritable et memorable de ce qui c'est passé sur l'Exorcisme de trois Filles possedées (Paris 1623). To these may be added the more recent Amber Witch, evidently the production of a person well read in this sort of lore. The Incubus, well known to all who have read books on diablery, is painfully conspicuous in these Scottish trials. They repeat frequently a physiological peculiarity of the Evil One in a certain frigiditas, which is not in accordance with popular notions of his dwelling-place, but is in entire and striking coincidence with what is laid down in the authorities above referred to. If Mr. Montgomery had read such books, he would have found his conflict with the cats prefigured in the little book called Magica, &c., where the conclusion of the onslaught on the cats is "quæ postea in feminas versæ, gravia vulnera comperta sunt accepisse." P. 292.

through inflictions which sometimes broke down the firmest minds embarked in the holiest cause, and forced apostacy on the most enthusiastic champions of religious faith. When even a few among the men of strong enthusiasm and lofty purpose, whose fate is inscribed in the martyrology, could be so borne down, is it wonderful that aged females of questionable character, and a few recluse men who had frightened themselves by the unexpected results of rash chemical experiments, should nearly all yield? The tortures inflicted on Urban Grandier, in the vain attempt to extract a confession of sorcery, rendered him who endured them illustrious for his undaunted courage; but Grandier had in view the influence of his order—his spotless fame as a priest—the love of truth—and, by his own account, the danger of passing to judgment with a falsehood on his tongue: he had last and not least the proud satisfaction of baffling the cruel enemies who had vowed that they should find the means of condemning him from his own lips. One less resolute would, in the moment when the overwrought spirit was flickering for release, have faintly assented to the whole horrible tale put together by his persecutors, and thus have left, as the Scottish witches have, a distinct narrative of diabolical experiences, to puzzle philosophers with a psychological mystery.

The inflictions on many of the Scottish victims were sometimes no less horrible than those borne by Grandier; and, in one or two instances, they were endured with a firmness nearly as great. The return to Scotland of King James with his Danish bride, was an occasion for a series of accusations, followed up by the most refined tortures. Of his romantic journey, so little in accordance with his usual character, the king was extremely proud; and he did not deem it at all wonderful that the powers of darkness should adopt the occasion for endeavouring to strike a blow at his sacred person. Though usually a good-natured man, his intense selfishness and vanity made him hard, relentless, and savage towards those who gave themselves up to the awful crime of plotting against their anointed king; and the criminal records of Scotland are marked by many dark traces of his sanguinary vindictiveness. The present instance, too, was an excellent opportunity for exercising his marvellous acuteness in the discovery of deep mysteries, and with the aid of the boots and the cord he did succeed in divulging a strange history. A certain Geiles Duncan was rumoured to have been present at a great sabbath of witches in the church of North Berwic, when Satan presided in the pulpit. It was said that they had gone there "to the num-

ber of 200, and that they all went together to sea, each one in a riddle or sieve—and that they all went into the same very substantially with flagons of wines, making merry and drinking by the way in the same riddles or sieves to the kirk of North Berwic." Geiles played upon a trump, or jews-harp; and a contemporary says, that "these confessions made the king in a wonderful admiration, and sent for the said Geiles Duncan, who, upon the like trump, did play the said dance before the king's majesty, who, in respect of the strangeness of these matters, took great delight to be present at their examinations."*

This Geiles Duncan had been brought to confession by torture in the pilliwinkies or pilniwinkies, a species of thumb-screw—"and binding or wrenching her head with a cord or rope." The inquisitors did not, of course, attribute the confession to the torture, but to their discovery during its infliction of the devil's marks on her body, "which, being found, she confessed that all her doings was done by the wicked allurements and enticements of the devil, and that she did them by witchcraft." Agnes Sampson was subjected to the same torture, and with exactly the same result. It

* Newes from Scotland. A true Discourse of the Apprehension of sundry Witches.

is observable that these women, when they found that the king took so intense an interest in the matter of their accusation as personally to examine them, became extremely communicative, and mixed up their relations with some judicious flattery—such as, that the reason why the devil so hated the king was, because his majesty was the greatest enemy he had in the world; but the royal heart was too entirely petrified to be softened even with this skilful solvent.

We have more full particulars of the infliction of torture on a male wizard named Fian, who acted as registrar to the gang. The inquisitors began "by thrawing of his head with a rope, whereat he would confess nothing. Secondly, he was persuaded by fair means to confess his follies, but that would prevail as little. Lastly, he was put to the most severe and cruel pain in the world, called the boots; who, after he had received three strokes, being inquired if he would confess his damnable acts and wicked life, his tongue would not serve him to speak." This was attributed to certain charmed pins; and when they were removed, the doctor, in the king's presence, subscribed his confession.

The doctor seems, like the females, to have expected grace of his sovereign, but, finding that he had no chance for life, he made his escape. On

being recaptured he denied everything, "notwithstanding that his own confession appeareth remaining in record under his own handwriting, and the same thereunto fixed, in the presence of the king's majesty and sundry of his council—yet did he utterly deny the same."

Next follows a horrible description, which we take from the curious pamphlet already cited. It was printed as a justification of the king, or rather an eulogy on him, for his conduct on the important occasion:

"Whereupon the king's majesty, perceiving his stubborn wickedness, conceived and imagined that in the time of his absence he had entered into new conference and league with the devil his master; and that he had been again newly marked, for the which he was narrowly searched; but it could not in any way be found. Yet for more trial of him to make him confess, he was commanded to have a most strange torment, which was done in the manner following. His nails upon all his fingers were riven and pulled off with an instrument called in Scottish a turkas, which in England we call a pair of pincers, and under every nail there was thrust in two needles over even up to the heads. At all which torments notwithstanding, the doctor never shrunk any whit; neither would he then

confess it the sooner for all the tortures inflicted upon him. Then was he with all convenient speed by commandment conveyed again to the torment of the boots, wherein he continued a long time, and did abide so many blows in them, that his legs were crushed and beaten together as small as might be; and the bones and flesh so bruised that the blood and marrow spouted forth in great abundance, whereby they were made unserviceable for ever. And, notwithstanding all these grievous pains and cruel torments, he would not confess anything; so deeply had the devil entered into his heart, that he utterly denied that which he before avouched; and would say nothing thereunto but this, that what he had done and said before was only done and said for fear of pains which he had endured."

Alesoun Balfour's execution, in 1594, would have passed unnoticed in the crowd, but that her confessions were adduced in evidence against the master of Orkney, for attempting to kill his brother by witchcraft and poison. She made her confession after forty-eight hours of the "vehement torture of the caschielaws." This instrument is supposed to have been an iron boot, heated gradually by a movable chafer; but we shall see that a prisoner was sometimes kept for several days under the

operation, and we may presume that it was rather an instrument of constraint than of active infliction. Aleson's age was not mentioned, but she may be supposed to have passed the most robust period of life, since her husband, by profession a tailor, was eighty-one years old. The treatment of this family was a terrible refinement of cruelty. Her old husband, "together with her eldest son and her daughter, were all kept at once and at the same instant in ward beside her, and put to tortures at the same instant time; the father being in the long irons of fifty stone weight; the son galled in the boots with fifty-seven strokes; and the daughter, being seven years old, put in the pilniwinkies—to this effect, that her said husband and bairns being so tormented beside her, might move her to make any confession for their relief." So say the pleadings recorded in the trial of the master of Sinclair.* We are then told as to the confession made by another accomplice, Thomas Palpa, thus: "The same was in like manner extorted of him, he being kept in the caschielaws eleven days and eleven nights; twice in the day by the space of fourteen days galled in the boots—he being naked in the mean time and scourged with tows (or ropes) in such sort that they left neither flesh nor hide on him—

* Pitcairn, i., 376.

in the extremity of which torture the said pretended confession was drawn out of him."

The confessions so extorted were adduced as evidence against the master of Orkney, and he was acquitted, his counsel scornfully directing attention to the cruelties which produced them. But they had been in the mean time fatally efficacious against the poor people who had uttered them. Alesoun Balfour, however, showed spirit and courage at the closing scene. At the heading hill in Kirkwall, where she was taken to be burned, she made a last solemn declaration, and found a notary-public courageous enough to attest it. "She declared and took upon her soul and conscience, as she would answer at the day of judgment, when the secrets of all hearts shall be disclosed, that she was as innocent, and would die as innocent, of any point of witchcraft as a bairn new born;" and being asked by the parson of Ropher how she had been induced to make confession in the castle of Kirkwall, she answered: "That the time of her first deposition she was tortured divers and several times in the caschielaws, and sundry times taken out of them dead and out of all remembrance either of good or evil. As likewise her goodman being in the stocks, her son tortured in the boots, and her daughter put in the pilniwinkies, where-through

she and they were so vexed and tormented, that partly to eschew a greater torment and punishment, and upon promise of her life and good deed by the said parson, falsely against her soul and conscience she made that confession, and not otherwise, for the whilk she asked the Lord mercy and forgiveness." She was put to death, adhering "constantly" to this statement; and, though her firmness did not avert her own fate, when it was found to bear on that of the scion of a noble house, it was allowed its full influence.

Such are a few specimens of the manner in which the marvellous confessions of the witches were extracted.* The subject is not so pleasing as to invite one to further elucidation. If there be any who, after such instances as these, hold that the long and minute confessions of these poor creatures, as they are now recorded, were actually uttered by them, whether from the influence of diseased imagination,

* Among some sensible and humane remarks on witchcraft confessions, by Sir George Mackenzie—who has not always enjoyed a reputation for humanity—the following passage, coming from the head of the criminal prosecution department, in the time of witch trials, is very instructive: "Most of these poor creatures are tortured by their keepers, who, being persuaded they do God good service, think it their duty to vex and torment poor prisoners; and I know, *ex certissimâ scientiâ*, that most of all that ever were taken, were tormented after this manner; and this usage was the ground of all their confession."—Laws and Customs in Matters Criminal, p. 87.

or as a faithful record of events which took place, he must be left in his opinion—it would be useless to attempt to influence it by evidence.

A glance over the history of this melancholy subject, shows that in Scotland, as in other countries, these witch panics, with their consequent tortures and slaughters, came in great pulsations. In connecting them with historical events, we find, in the first place, that so far as our records bear, they followed the Reformation. It might be inferred from this, that there is a certain amount of latent superstition in the half-civilised mind; and that if it is not led into comparatively safe channels by persons of knowledge and authority, it stagnates, and, accumulating, breaks its bounds in a destructive torrent. On a general aspect of the case, such a view seems plausible. But it would need support from a fuller knowledge than we possess ere it could be finally adopted. We have not readily the means of knowing to what extent ecclesiastical proceedings were carried out in earlier times, while, in the later, the records of our criminal courts afford us ample knowledge. The monkish annalists of Scotland amplify their fabulous narratives with frequent tales of witchcraft, showing it to be in their own time a common belief; as, for instance, when they tell us how the life of King Duffus was attempted by the melting

of a wax image, and record the incidents in the history of Macbeth.* We know, also, that if prosecutions for witchcraft were rare in Scotland during Catholicism, they were abundant in other lands.

The multitude, however, of these persecutions during the first century and a half after the Reformation, is certainly a scandal pretty equally distributed over all the Protestant bodies. If Puritanism took the sway in New England and some other places, the most violent inflictions in Scotland came from the two monarchs who were the chief opponents of Puritanism—James VI. and Charles II. The period least signalised by so unhappy a characteristic was that of the Protectorate. The Cavaliers would say that the great demon had put down all the small ones. Cromwell had a mind certainly sufficiently under spiritual impressions, but here, as in other matters, we see the wonderful wisdom with which he conducted the practical business of this world, however much he might have another in his thoughts. It was his business, with a stern and strong hand, to restrain all useless persecution. Terrible and remorseless as he was when cutting down the crop of Irish Papists, that he might plant the land with what he deemed a better seed, he was

* The history of the origin of Macbeth, as described by Wyntoun, is an application of the Doctrine of the Incubus.

never cruel without a definite object, nor would he permit cruelty in others, unless it aided his own projects. Thus, unless it could be shown that the state was to be disturbed by them, hallucinations might have their free course, people might see visions and dream dreams, and old women might ride on broomsticks or go to sea in sieves. He required to see some more substantial evil ere he considered it a *dignus vindice nodus*.

How much greater was his wisdom than that of his witty and learned contemporary, Selden, who, with a mocking half-credulity, says, "The law against witches does not prove there be any; but it punishes the malice of those people that use such means to take away men's lives. If one should profess that, by turning his hat thrice and crying *bux*, he could take away a man's life, though, in truth, he could do no such thing; yet this were a just law made by the state, that whoever should turn his hat thrice, and cry *bux*, with an inclination to take away a man's life, shall be put to death."[*] Cromwell thought and did far otherwise. Men might whirl their hats and cry bux until they were tired, ere he meddled with them—and the consequence was that they did tire.

A belief in witchcraft lingered for a considerable

[*] Table Talk.

time among the educated classes in Scotland. "The last execution of a Scottish witch," says Mr. Kirkpatrick Sharpe, "took place in Sutherland, A.D. 1722, the sentence having been pronounced by the sheriff depute Colonel David Ross, of Little Dean. The old woman belonged to the parish of Loth, and, among other crimes, was accused of having ridden upon her own daughter, transformed into a pony and shod by the devil, which made the girl ever after lame both in hands and feet, a misfortune entailed upon her son, who was alive of late years. The grandmother was executed at Doroch; and it is said that, after being brought out to execution, the weather proving very severe, she sat composedly warming herself by the fire prepared to consume her, while the other instruments of death were making ready."*

The penal statutes against witchcraft were repealed in 1736. In 1743, the Associate Presbytery, the predecessors of an ecclesiastical body which at this day embraces a large portion of the educated community of Scotland, in an act for the renewal of the covenant, enumerate, among other national sins, that "The penal statutes against witches have been repealed by the parliament, contrary to the express law of God; for which a holy God may be

* Preface to Lawe's Memorials, p. 107.

or as a faithful record of events which took place, he must be left in his opinion—it would be useless to attempt to influence it by evidence.

A glance over the history of this melancholy subject, shows that in Scotland, as in other countries, these witch panics, with their consequent tortures and slaughters, came in great pulsations. In connecting them with historical events, we find, in the first place, that so far as our records bear, they followed the Reformation. It might be inferred from this, that there is a certain amount of latent superstition in the half-civilised mind; and that if it is not led into comparatively safe channels by persons of knowledge and authority, it stagnates, and, accumulating, breaks its bounds in a destructive torrent. On a general aspect of the case, such a view seems plausible. But it would need support from a fuller knowledge than we possess ere it could be finally adopted. We have not readily the means of knowing to what extent ecclesiastical proceedings were carried out in earlier times, while, in the later, the records of our criminal courts afford us ample knowledge. The monkish annalists of Scotland amplify their fabulous narratives with frequent tales of witchcraft, showing it to be in their own time a common belief; as, for instance, when they tell us how the life of King Duffus was attempted by the melting

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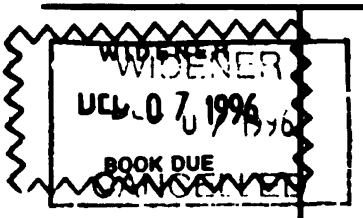
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